

***United States Court of Appeals
for the Second Circuit***



APPENDIX

74-1550

74-1550

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

NO. 74-1550

THE UNITED STATES OF AMERICA,
Plaintiff-Appellee,
-against-
CARMINE TRAMUNTI, et al.,
Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

DEFENDANTS-APPELLANTS' JOINT APPENDIX
Vol. J(2) - Pages 268 to 415

HERBERT SIEGAL
Attorney for Defendant-Appellant
Carmine Tramunti
17 John Street
New York, New York 10038
RE 2-5330

NANCY ROSNER
Attorney for Defendant-Appellant
Louis Inglese
401 Broadway
New York, New York 10013
925-8844

PAGINATION AS IN ORIGINAL COPY

IVAN S. FISHER
Attorney for Defendant-Appellant
Donato Christiano
401 Broadway
New York, New York 10013
925-5937

ROBERT L. ELLIS
Attorney for Defendant-Appellant
Angelo Mamone
17 East 63rd Street
New York, New York 10021
838-2323

FRANK A. LOPEZ
Attorney for Defendant-Appellant
Joseph DiNapoli
31 Smith Street
Brooklyn, New York 11201
237-9500

THEODORE ROSENBERG
Attorney for Defendant-Appellant
Frank Pugliese
31 Smith Street
Brooklyn, New York 11201
858-0589

KENNETH E. WARNER
Attorney for Defendant-Appellant
Joseph Ceriale
875 Avenue of the Americas
New York, New York 10001
244-4444

ROBERT FISKE
Attorney for Defendant-Appellant
John Gamba
One Chase Manhattan Plaza
New York, New York 10005
422-3400

GEORGE DAVID ROSENBAUM
Attorney for Defendant-Appellant
Vincent D'Amico
51 Chambers Street
New York, New York 10007
BE 3-8120

MICHAEL C. DOWD
Attorney for Defendant-Appellant
Frank Russo
120-10 Queens Boulevard
Kew Gardens, New York 11415
793-2900

ROBERT LEIGHTON
Attorney for Defendant-Appellant
Warren C. Robinson
15 Park Row
New York, New York 10038
267-6016

GARY SUNDEN
Attorney for Defendant-Appellant
William Alonzo
401 Broadway
New York, New York 10013
925-4848

EDWARD PANZER
Attorney for Defendant-Appellant
Hattie Ware
299 Broadway
New York, New York 10007
349-6128

MARTIN JAY SIEGAL
Attorney for Defendant-Appellant
John Springer
250 West 57th Street
New York, New York 10019
586-1414

HARRY POLLAK
Attorney for Defendant-Appellant
Henry Salley
299 Broadway
New York, New York 10007
BE 3-0386

1 JHP

2 UNITED STATES OF AMERICA

3 vs

73 Crim 1099

4 CARMINE TRAMUNTI et al.,

5 Defendants

6 New York, N. Y.

7 January 23, 1974 - 10:00 a.m.

8
9 (Proceedings resumed:)

10 THE COURT: Good morning, ladies and gentlemen.

11 We have so far gone through over two hundred jurors
12 in an attempt to select a jury here. On Monday last, at
13 the very persuasive pleading of Mr. Lopez, I agreed to permit
14 the defense counsel to have three extra challenges for the
15 alternates. In effect, however, I have seen that the defense
16 counsel have already used three challenges in the alternate
17 row. Accordingly, I think that twenty-eight challenges
18 are quite enough, so you have eight challenges left.

19 Mr. Lopez, I understand that you want certain
20 items marked as Court's exhibits.

21 MR. LOPEZ: Yes, your Honor.

22 Your Honor, is it correct, then, that in accordance
23 with your Honor's ruling, we will have five challenges and
24 then three challenges?

25 THE COURT: That's right.

1 JHP

2 MR. LOPEZ: I think that the defense would like to
3 take an exception, your Honor.

4 THE COURT: Absolutely. I don't know whether an
5 exception is necessary, but it is noted.

6 MR. LOPEZ: Thank you very much, your Honor.

7 Your Honor, at this time I would like to introduce
8 as Court Exhibit Number 7 an article appearing on this trial
9 in the Spanish-speaking newspaper here in New York on
10 January 21, 1974.

11 As your Honor well knows, we have had the possibil
12 ity of selecting jurors from the Spanish community, and, of
13 course, this paper is widely circulated among them, and it
14 discusses this trial, indicating what they deem prominent
15 defendants as Tramunty and Louis Inglese.

16 As Court Exhibit Number 7, we would like to have
17 marked the New York Post article of January 22, 1974, again
18 discussing the trial itself and labeling this case "the
19 Tramunti trial" or "the Tramunti jury".

20 I would also like to introduce into evidence, that
21 is, as a Court exhibit, your Honor, an article in the Daily
22 News dated January 23, 1974, again discussing this trial,
23 labeling it again "the Tramunti trial", your Honor.

24 So I have three exhibits which I hope the Court
25 will receive and which I ask be marked 6, 7 and 8.

1 JHP

2 THE COURT: Yes. Mark them, Mr. Clerk.

3 (Court Exhibits 6, 7 and 8 marked for identifica-
4 tion.)

5 THE COURT: Did you indicate, Mr. Hopez, that one of
6 them is from today's News?

7 MR. LOPEZ: I believe yes, your Honor. One of them
8 is.

9 THE COURT: All right.

10 MR. LOPEZ: Your Honor, a second point, your Honor,
11 on a very important issue in this trial: the introduction of
12 approximately one million dollars which the Government intends
13 hopefully to introduce into evidence, and, of course, mention
14 during the course of their opening.

15 Many defense counsel have advised me, and I re-
16 spectfully request in all our behalfs that we be permitted oral
17 argument on this matter after the jury is selected and before
18 the Government's opening.

19 We have indication that Mr. Phillips in his opening
20 will certainly have occasion to refer to this money. We feel,
21 your Honor, that the Court should be permitted at least to
22 resolve the issue of irrelevancy or relevance, as you wish
23 to put it, and until that final determination is made by the
24 Court, hopefully after hearing defense counsel and the
25 Government, in the event that that issue is not decided, the

1 JHP

2 Government preclude itself from referring to it in its open-
3 ing or mentioning it, even, during the course of its opening
4 or during the course of receiving evidence, your Honor.

5 THE COURT: I think that is fair, except, Mr.
6 Lopen, I think we will do it before the jury is completely
7 selected. I don't know exactly how many veniremen we have
8 presently, but if we don't have enough to really go through
9 it and we have to wait for the afternoon, why don't we
10 use this morning for it?

11 MR. LOPEZ: I understand we are still in the pro-
12 cess of research, your Honor. We would like to give your
13 Honor as many cases as possible that are in point, your
14 Honor.

15 I understand that some of these cases are not yet
16 available. Some of the defense counsel are still in the
17 process of researching the matter. Defense counsel will, of
18 course, be as brief as possible, your Honor, under the circum-
19 stances.

20 THE COURT: I would hope so.

21 MR. LOPEZ: Right. Therefore, your Honor, I would
22 hope that we could argue this point tomorrow morning, at
23 ten o'clock, and in that way we will have our cases, if in
24 point, and we will have xerox copies of those cases to pre-
25 sent to your Honor.

1 JHP

2 In that way, your Honor can make a ruling knowing
3 that it has received all the cases in point, your Honor,
4 rather than just have it this afternoon, because I think we
5 would be at a disadvantage.

6 THE COURT: I don't want to put anybody at a dis-
7 advantage, Mr. Lopez. I just want to try and use the time
8 as economically as possible.

9 Truthfully, I don't even know if we are going to
10 get a jury today. I am terribly disturbed about the length
11 of time we have taken to pick a jury.

12 MR. LOPEZ: May we suggest, your Honor, if we can't
13 get sufficient prospective jurors, we have been given even
14 this morning additional tapes. As a matter of fact, we
15 have been given at least six additional cassettes. Defense
16 counsel are still in the process of listening to those
17 tapes.

18 I think from a point of economy timewise this would
19 be a superb occasion, if we did not finally select a jury
20 today, to give defense counsel an opportunity to listen to
21 those tapes. We are trying to make transcripts of the other
22 tapes that we received only a short while ago, your Honor,
23 so that defense counsel will certainly be in preparation of
24 the case.

25 I think that before any witness takes the stand for

1 JHP

2 the Government we should at least have knowledge and be in a
3 position to cross-examine that witness with transcripts of
4 prior statements if they are inconsistent.

5 So I think that we could take advantage of any time
6 that the Court could give us.

7 THE COURT: I don't want to waste time. I will be
8 very honest about it. I do want to see what the chances are
9 of selecting a jury today.

10 MR. ELLIS: Your Honor, we have an open item of
11 business.

12 On my motion yesterday to obtain the names of the
13 persons present at the act with which Mr. Mamone is charged,
14 the overt act --

15 THE COURT: I understand that. I will have a reso-
16 lution for you before noontime today.

17 MR. FISHER: If your Honor please, with regard
18 to the Court's decision to deny to us those three challenges
19 I think the record should reflect that it was the strategy of
20 defense counsel in exercising the challenges that it has
21 been relying on the number we were told we were going to
22 have, and I doubt very much if the three alternates would
23 have been challenged in the manner that they were, were we
24 told then, as we were just now, that we would be denied those
25 challenges.

1 JHP

2 THE COURT: Your objection is noted. As I said
3 before, I think I have been more than fair and patient. The
4 denial of three challenges, when you have eight left,
5 really should create no -- I think the word I have been using
6 is "insuperable burden".

7 MR. FISHER: You have used that frequently.

8 THE COURT: Unfortunately.

9 If everybody will just stay here, I want to leave
10 and go across the hall and find out how many prospective
11 jurors we have and what our chances are for the rest of the
12 day.

13 (Recess.)

14 THE COURT: We still have some jurors left. How-
15 ever, as you know, it takes some time to lay down the ground
16 rules and so on and so forth. We have two other jurors who
17 we believe will be back this afternoon, which will be another
18 twenty-four.

19 Just for economy of time, can't I do them all at
20 once?

21 So I think that what we are going to do is break
22 until one-thirty. Does anybody here have any objection
23 to my going out to the jury and telling them that we are
24 working here, and they are not wasting their time sitting
25 in the jury room, but we have other things to take care of,

1 JHP

2 and that they will be taken to lunch and after lunch we will
3 start again. Does anybody object to it at all? If you
4 want me to bring them out and put them in, you can sit here,
5 but it seems like a terrible waste of time.

6 All right. It is unanimous that there is no objec-
7 tion.

8 One-thirty, and please be prompt. I want to get
9 this jury picked today.

10 (A luncheon recess was taken.)

11 - - -

12 A F T E R O N O N S E S S I O N

13 1:30 p.m.

14 THE COURT: Gentlemen, you may remember that when w
15 finished up last night I had not inquired of Miss Nancy
16 B. Jewell -- at least, my recollection is that I did not
17 inquire of her, and I propose to do that now.

18 We still do have open, I think, a motion by counsel
19 for Mamone as to who else was present at the overt act.

20 MR. ELLIS: Yes, sir.

21 THE COURT: In view of the fact that basically we
22 have given to all the other defendants who were present at
23 the overt acts they are named in, I think we might as well
24 be consistent.

25 You understand me, Mr. Phillips?

1 JHP

2 MR. PHILLIPS: Yes, your Honor.

3 THE COURT: All right. It might take a little
4 while for him to figure it out. We will give him that little
5 while. All right.

6 MR. ELLIS: Your Honor, it is taking me more than a
7 little while to figure out what is going on, too.

8 MR. SUNDEN: Your Honor, most respectfully, I am in
9 exactly the same position as Mr. Ellis.

10 THE COURT: Whom do you represent, Mr. Sunden?

11 MR. SUNDEN: William Alonzob. He was not named in
12 any overt acts or substantive counts, and your Honor directed
13 that we receive one overt act. Again, I received the same
14 as far as information is concerned as Mr. Ellis.

15 I would ask that you direct Mr. Phillips to supply
16 me with any names.

17 THE COURT: Why not? That is a direction, Mr.
18 Phillips, not a request.

19 MR. WARNER: Your Honor, while the jury is being
20 brought back, may I approach the bench?

21 THE COURT: Certainly.

22 (At the side bar:)

23 MR. WARNER: Your Honor, my client is Joseph Cerialle.
24 He works for the Housing & Development Administration. He is
25 not a man of very great means. He has a wife, and he has a

1 JHP

2 daughter. He has been informed by his boss, Michael Halperin
3 that they can give him work on the night shift. He does
4 emergency glazing, carpentry and plastering work for the HDA
5 in places where landlords have violations and so on.

6 Your Honor, I would request the Court if we could
7 have permission for Mr. Ceriale to leave at three o'clock
8 each day. He gives his consent not to be present. Of course,
9 I will be here on his behalf.

10 THE COURT: He understands it is a voluntary
11 absence?

12 MR. WARNER: Of course.

13 THE COURT: And he can't object to it later?

14 MR. WARNER: Yes; of course. He is requesting that
15 he be allowed to make that voluntary absence.

16 THE COURT: All right. Do you have any objection?

17 MR. CURRAN: Your Honor, I am concerned, frankly,
18 about the precedent with defendants coming and going in the
19 courtroom.

20 THE COURT: I am talking about today.

21 MR. WARNER: No. I am talking about --

22 MR. CURRAN: He is talking about the trial.

23 MR. WARNER: He has been able to get placed on the
24 night shift.

25 THE COURT: I will take it on a day-by-day basis.

1 JHP

2 Remind me every day about it.

3 MR. WARNER: In order to avoid a precedent.

4 THE COURT: Yes.

5 MR. CURRAN: I have no objection to today, your
6 Honor.

7 MR. WARNER: It is not necessary for today, it turns
8 out. Could I get permission from the Court for tomorrow, and
9 then subsequently I will remind the Court on a daily basis.

10 THE COURT: It is not necessary for today?

11 MR. WARNER: No. Today it is not necessary, although
12 I will speak to him, and if it is necessary --

13 THE COURT: Yes.

14 MR. WARNER: All right.

15 (In open court:)

16 THE COURT: Miss Jewell, as I recall it, yesterday
17 we had not asked you the particular questions which I have
18 asked all the other jurors; is that right, ma'am?

19 PROSPECTIVE JUROR 3: Yes.

20 BY THE COURT:

21 Q Miss Jewell, you live in Manhattan; is that right?

22 A Yes.

23 Q You live there for the last five years?

24 A Yes.

25 Q Are you presently employed?

1 JHP

2 A Yes.

3 Q What do you do?

4 A I work for Harper & Row, which is a publishing
5 house, in the children's book department.

6 Q You are in the children's book department?

7 A Yes.

8 Q Are you an editor up there?

9 A No; I am a manuscript reader.

10 Q Have you worked there for the last five years?

11 A Yes.

12 Q Would you tell us what newspaper you read?

13 A The Times. Sometimes the Post, occasionally.

14 Q What TV or radio news programs do you watch or
15 listen to?

16 A I watch the evening news sometimes and sometimes
17 the late night news.

18 Q Have you ever heard anything about of the defend-
19 ants in this case, or this case?

20 A No.

21 Q Have you ever been the victim of a crime?

22 A My apartment was robbed several years ago.

23 Q You were not there, though?

24 A No; I wasn't.

25 Q Did you make a complaint to the police?

1 JHP

2 A I reported it.

3 Q Did you ever appear in any proceeding in connection
4 with that?

5 A No.

6 Q Is any member of your family or really close friend
7 a member of any law enforcement agency?

8 A No. My father is a lawyer.

9 Q We like to think that they are partially a law
10 enforcement agency.

11 Can you tell us what kind of law your father prac-
12 tices?

13 A Well, he used to work for a corporation, and he is
14 now associated with Legal Aid in Westchester.

15 Q With Legal Aid in Westchester?

16 A Yes.

17 Q Does he do criminal work with the Legal Aid Society?

18 A I don't believe so, no.

19 Q The way you say that, it sounds like he doesn't
20 talk about his work, at home.

21 A He doesn't talk much about it. He is a secretary.
22 He is a member of the board of directors.

23 Q Of the Legal Aid in Westchester?

24 A Yes.

25 Q Have you ever been a juror in a civil or criminal

1 JHP

2 case or a member of a grand jury?

3 A I was an alternate juror in a civil case two years
4 ago. I think it was the State Court.

5 Q What kind of a case was it?

6 A It was a suit, an accident suit.

7 Q A car accident type thing?

8 A Yes.

9 Q I asked a number of questions of the panel, and I
10 said I assumed I was going to get a negative answer from
11 them to each question. Would you have answered any of those
12 questions other than as "No"?

13 A No; I would not have.

14 Q The answer is, you would have answered them all
15 "No"; right?

16 A Yes.

17 Q Is there anything that you want to tell me which
18 you feel might impede you from rendering a fair and impartial
19 verdict in this case?

20 A Well, I would like to talk to you.

21 Q Surely. Do you want to talk to me here at the side
22 bar?

23 A I would like to.

24 THE COURT: Come on up.

25 (Discussion at the side bar with Prospective Juror

1 JHP

2 Number 3.)

3 (In open court:)

4 THE COURT: Miss Jewell is excused.

5 (At the bench:)

6 THE COURT: I received a sealed note from Thomas
7 J. Kingsley, who is Juror Number 2.

8 Mr. Kingsley, if you recall, is unemployed. He has
9 an opportunity. His wife told him last night that he got a
10 phone call from an agency representing Carrol's Restaurant.
11 He has been unemployed for two months. If he starts in at
12 their school on January 30th, he gets paid, and he gets the
13 schooling paid for.

14 This was apparently the job that he was hoping to
15 get.

16 You know, service on a jury under the circumstances
17 that we are projecting here is a tremendous burden, but this
18 kind of ruins the guy's economic life.

19 MR. CURRAN: I remember, your Honor, his wife was
20 also unemployed. He is the fellow that worked in Indiana
21 for fourteen months.

22 MR. LOPEZ: Right.

23 MR. CURREN: It's in your Honor's hands.

24 THE COURT: You gentlemen have opinions, too.

25 MR. CURRAN: I would assume he would be unhappy.

1 JHP .

2 MR. LOPEZ: Right.

3 THE COURT: If I were he, I wouldn't know whom to
4 kill first.

5 MR. LOPEZ: God knows how he would react with his
6 fellow jurors et cetera.

7 THE COURT: All right. Let me have him up here.

8 (In open court:)

9 THE COURT: Mr. Kingsley, would you come up, please,
10 to the bench.

11 (Discussion at the side bar with Prospective Juror
12 Number 2.)

13 (In open court:)

14 THE COURT: Juror Number 2, Mr. Kingsley, is
15 excused.

16 Mr. Clerk, bring in the additional panel.

17 (Pause.)

18 THE COURT: I guess you are wondering what is
19 going on. We are waiting for a new jury panel.

20 All right, Mr. Clerk; will you swear the new panel.

21 (A panel of prospective jurors was duly sworn.)

22 THE COURT: I am directing myself basically to those
23 jury panel members who have just come in.

24 I think -- I know that you recognize that being on
25 a jury is a duty and a privilege. If you or someone very

1 MP

2 close to you were to be charged wrongfully with some crime
3 or misdemeanor, whatever it might be, you would want someone
4 on that jury who thinks just like you do.

5 I know that you feel your duty as a citizen is to
6 serve. That's why you came down to the courthouse, to begin
7 with.

8 Now, I know that you came expecting to serve for
9 two weeks. This case may last for four to six weeks. You
10 should also understand that there is a possibility of your
11 being sequestered.

12 Let me explain what "sequestered" means. Being
13 sequestered means that after the trial, which goes on during
14 the day, you will not be going home. You will be put up
15 at Government expense; you will get all your food and all the
16 rest of it, at Government expense, all at Government expense.

17 Now, as your name is called, I want you to under-
18 stand the background, the possibilities of this case first.
19 As your name is called, I am going to ask whether this is an
20 insuperable burden for you individually. Don't tell me that
21 it's going to be a terrible chore for your employer unless
22 your employer is going to fire you. That's a personal burden.
23 But I want you to be mindful before you answer yes or no to
24 the question about your duties as a citizen and also about the
25 privilege it is to serve.

1 MP

2 All right. Now, Mr. Clerk, would you call the
3 first juror.

4 THE CLERK: Juror Number 2 is now Archie Gunthorpe.
5 BY THE COURT:

6 Q Mr. Gunthorpe -- is that correct, sir?

7 A (P. J. 2) Yes, sir.

8 Q Knowing the possibilities in this trial, would this
9 place an insuperable burden on you, sir?

10 A No, sir.

11 THE COURT: All right.

12 THE CLERK: Juror Number 3 is now Peter E.
13 Jacobson.

14 THE COURT: Mr. Jacobson, knowing the possible
15 ground rules of being a juror in this case -- I say "possible
16 -- that's all they are right now -- would you be willing to
17 serve or do you think that would cause you a real hardship?

18 PROSPECTIVE JUROR 3: No.

19 THE COURT: It would not cause you a hardship?

20 PROSPECTIVE JUROR 3: No.

21 THE COURT: All right. Take the third seat in the
22 first row, please.

23 THE CLERK: Juror Number 4 is now Mrs. Nettie
24 Geller.

25 THE COURT: May I have the card, please.

1 MP

2 Mrs. Geller, knowing the ground rules or possible
3 ground rules, would it cause you a great hardship to serve on
4 this jury?

5 PROSPECTIVE JUROR 4: Yes, your Honor.

6 THE COURT: All right. Come on up.

7 (Discussion at the side bar with Prospective Juror
8 Number 4.)

9 (In open court:)

10 THE COURT: Mrs. Geller is excused.

11 Thank you, marshal.

12 By the way, ladies and gentlemen, I will strongly
13 recommend, if you have to leave your seat at any time, take
14 your belongings with you.

15 THE CLERK: Juror Number 4 is now Angela A. Florio.

16 Is that Miss or Mrs., ma'am?

17 PROSPECTIVE JUROR 4: Mrs.

18 THE COURT: Mrs. Florio, do you feel that serving
19 on a jury under the conditions I suggested would cause you a
20 great hardship?

21 PROSPECTIVE JUROR 4: Yes.

22 THE COURT: All right. Come on up. We will chat
23 about it.

24 (Discussion at the side bar with Prospective Juror
25 Number 4.)

1 MP

2 (In open court:)

3 THE COURT: Mrs. Florio is excused. Call the next
4 juror, please.

5 THE CLERK: Juror Number 4 is now James E. Nash.

6 THE COURT: Mr. Nash, under the conditions that I
7 have suggested are possible, would it cause you an insuperable
8 burden to serve on this jury?

9 PROSPECTIVE JUROR 4: Yes, sir.

10 THE COURT: All right. Come on up.

11 (Discussion at the side bar with Prospective Juror
12 Number 4.)

13 (In open court:)

14 THE COURT: All right. Stand in the back of the
15 room, please.

16 Mr. Nash is excused. Call the next juror.

17 THE CLERK: Juror Number 4 is now R. Lee West.

18 THE COURT: Mr. West, you understand the possibility
19 of service on this jury. Would it cause you an insuperable
20 hardship, sir?

21 PROSPECTIVE JUROR 4: No.

22 THE COURT: All right. Would you take the third seat
23 from the end of the first row, please.

24 Call the next juror, please.

25 THE CLERK: Juror Number 10 is now Vincent J.

1 MP

2 Dicklares.

3 THE COURT: Mr. Dicklares, knowing the possibilities
4 of service on this jury, would it cause you a real burden?

5 PROSPECTIVE JUROR 10: No, sir.

6 THE COURT: All right. Would you take the middle
7 seat there in the second row, please.

8 Call the next juror, please.

9 THE CLERK: Juror Number 12 is now Amy Aldrich.

10 THE COURT: Is that Miss or Mrs., ma'am?

11 PROSPECTIVE JUROR 12: Mrs.

12 THE COURT: Thank you.

13 Mrs. Aldrich, knowing the conditions under which
14 you might have to serve on this jury, would it cause you any
15 real personal burden to do so?

16 PROSPECTIVE JUROR 12: Yes; it would.

17 THE COURT: All right. Come on up.

18 (Discussion at the side bar with Prospective Juror
19 Number 12.)

20 (In open court:)

21 THE COURT: Mrs. Aldrich is excused. Call the next
22 juror, please.

23 THE CLERK: Juror Number 12 is now Mrs. Karen Dunn.

24 THE COURT: Mrs. Dunn, under the conditions which
25 I have outlined for the possible service on this jury, would

1 MP

2 it cause you a great personal hardship?

3 PROSPECTIVE JUROR 12: I believe so.

4 THE COURT: You believe so? All right. Come on
5 up. We will chat about it.

6 (Discussion at the side bar with Prospective Juror
7 Number 12.)

8 (In open court:)

9 THE COURT: Mrs. Dunn is excused.

10 Call the next juror, please.

11 THE CLERK: Juror Number 12 is now Karen A. Potts.
12 Is that Miss or Mrs.?

13 PROSPECTIVE JUROR 12: Mrs.

14 THE MARSHAL: Miss.

15 PROSPECTIVE JUROR 12: Mrs.

16 THE MARSHAL: I am sorry, your Honor. I thought --
17 she was so quiet --

18 THE COURT: Listen, you can't take that title away
19 from her.

20 Mrs. Potts, would it cause you a great burden to
21 serve under the conditions I have outlined?

22 PROSPECTIVE JUROR 12: Yes.

23 THE COURT: All right. Come on up.

24 (Discussion at the side bar with Prospective Juror
25 Number 12.)

1 MP

2 (In open court:)

3 THE COURT: Mrs. Potts is excused. Call the next
4 juror, please.

5 Mrs. Potts, would you stand in the back of the
6 courtroom or, even better yet, go back to the Central Jury
7 Room.

8 THE CLERK: Juror Number 12 is now Charles Galant.

9 THE COURT: Mr. Galant -- Do I pronounce your name
10 correctly, sir?

11 PROSPECTIVE JUROR 12: Charles Galant.

12 THE COURT: All right. Now, Mr. Galant, you have
13 heard me outline the conditions of service on this jury.
14 Do you feel that they would cause a real hardship to you,
15 sir?

16 PROSPECTIVE JUROR 12: A hardship case.

17 THE COURT: It would be?

18 PROSPECTIVE JUROR 12: Yes.

19 THE COURT: All right. Come on up. We will chat
20 about it.

21 (Discussion at the side bar with Prospective Juror
22 Number 12.)

23 (In open court:)

24 THE COURT: Mr. Galant is excused. Call the next
25 juror, please.

1 MP

2 THE CLERK: Juror Number 12 is now Mrs. Floria
3 J. Jones.

4 THE COURT: Mrs. Jones, you have heard the con-
5 ditions under which you might serve if you joined this jury.
6 Would you be willing to do so, or would it be a burden on you?

7 PROSPECTIVE JUROR 12: It would not be a burden.

8 THE COURT: It would not?

9 PROSPECTIVE JUROR 12: No.

10 THE COURT: All right. Would you take the last seat
11 in the second row, please.

12 THE CLERK: Juror Number 14 is now Lawrence
13 Galante.

14 THE COURT: Mr. Galante, would service on this jury
15 under the conditions I set forth cause you a great personal
16 burden?

17 PROSPECTIVE JUROR 14: Yes, sir; it would.

18 THE COURT: All right. Come on up.

19 (Discussion at the side bar with Prospective Juror
20 Number 14.)

21 (In open court:)

22 THE COURT: Mr. Galante is excused.

23 Call the next juror, please.

24 THE CLERK: Juror Number 14 is now Arnold O. Wolf.

25 THE COURT: Mr. Wolf, after my comments about the

1 MP

2 possible conditions of serving on this jury, would you be
3 willing to serve, or do you have a real problem?

4 PROSPECTIVE JUROR 14: I would be willing to serve.

5 THE COURT: All right, Mr. Wolf, take the second
6 seat in the top row, please.

7 I am addressing myself not only to the new jurors
8 who have just taken their places in the jury box but to the
9 entire jury panel. I will be asking some particular ques-
10 tions of the folks who have just entered the box, but I will
11 be asking some general questions later, and I would appreci-
12 ate it if those in the back would indicate if they have a
13 "Yes" answer to any of the questions. I expect most of them
14 will show up negative.

15 If you do have a "Yes" answer, just put up your
16 hands and remember the question and the answer, and if your
17 name is called to serve on the jury, you can tell us what
18 the answer is at that point. All right.

19 Ladies and gentlemen, this is a criminal case. It
20 comes before you and me by reason of an indictment. There
21 are issues of fact to be tried in this case, and as jurors
22 the jury is the sole judge of the facts.

23 On the other hand, I am the sole judge of the law,
24 and you have to take what I say is the law as the law.

25 The first thing I want to tell you about is the

1 MP

2 indictment.

3 An indictment is a piece of paper, nothing more and
4 nothing less. It is the means by which a case is brought by
5 the Government. It is an accusation and nothing more. It
6 serves basically to inform the defendant and the Court as
7 to what the charges against the defendant are.

8 Needless to say, every defendant, each defendant
9 is presumed to be innocent, and it is up to the Government
10 to prove its case beyond a reasonable doubt.

11 This part of the jury selection is called the voir
12 dire. I have said it before, and I guess it can bear repeat-
13 ing. Lawyers and judges are prone to use foreign words and
14 expressions like "voir dire", which is French, and of course
15 we are all great on Latin and Greek also.

16 "Voir dire", however, means nothing more than a
17 chance to get acquainted. We want you to become acquainted
18 with us, and we want to become acquainted with you.

19 Let me start off by asking: does any juror know or
20 has he or she had any dealings, either directly or indirectly
21 with any of the defendants who will stand trial? The
22 defendants are Carmine Tramunti, Louis Inglese, Joseph
23 DiNapoli, Vincent D'Amico, William Alonzo, Donato Christiano,
24 Angelo Mamone, Frank Pugliese, Joseph Ceriale, Dominick Lessa,
25 Benjamin Tolopka, Joseph Marchese, Frank Russo, Al Greene.

1 MP

2 Hattie Ware, John Springer, Mary Jane Salviani, Henry Salley,
3 John Gamba and Warren Robinson.

4 Now, if anyone of those people are known to you,
5 please put up your hand.

6 All right. Does any juror now have or has he had
7 any dealings, either directly or indirectly, with any of
8 these people whom I will introduce to you or members of their
9 families?

10 Let me start off with the prosecution.

11 Do you know Mr. Paul J. Curran? Mr. Curran, would
12 you stand up, please.

13 Mr. Curran is the United States Attorney for this
14 District.

15 Do you know Walter M. Phillips, Jr., who is an
16 assistant United States Attorney?

17 Do you know Mr. Thomas Engel, who is an Assistant
18 United States Attorney?

19 Do you know Mr. Thomas Fortuin, who is also an
20 assistant United States Attorney?

21 Do you know any other member of the staff of the
22 United States Attorney's office for the Southern District of
23 New York?

24 All right. Let me introduce to you the attorneys
25 for the defense.

1 MP

2 Do you know Mr. Herbert Siegal? Mr. Siegal is
3 standing right over here.

4 Do you know Mr. Gilbert Epstein?

5 Do you know Mrs. Nancy Rosner? She is not here
6 presently, but you might know her. Does anyone know Mrs.
7 Nancy Rosner? All right.

8 Does anyone know Mr. Frank Lopez?

9 Does anyone know Mr. Matthew Salkow? Mr. Salkow
10 is not here. I am just asking you whether you know the name
11 or know him.

12 Does anyone know Mr. David Rosenbaum?

13 Does anyone know Gary Sunden?

14 Does anyone know Mr. Ivan Fisher -- Ivan S. Fisher
15 Some day I will find out what the "S." stands for.

16 Does anyone know Robert L. Ellis?

17 Does anyone know Theodore Rosenberg?

18 Does anyone know Kenneth E. Warner?

19 Does anyone know Murray Richman?

20 Does anyone know John P. Curley?

21 Does anyone know Michael Dowd?

22 Does anyone know Harold Schwartz?

23 Does anyone know Robert P. Leighton?

24 Does anyone know Edward Panzer?

25 Does anyone know Mr. Martin Jay Siegel?

JH T3pm

1 MP

2 Does anyone know Mr. Siegel? He is not in the
3 courtroom right now, but do you recognize the name?

4 Does anyone know Mr. Murray M. Segal?

5 By the way, there are three whose names sound like
6 Segal. None of them are related, in case you are interested.

7 Does anyone know Mr. H. Leonard King?

8 All right. The indictment I referred to before
9 refers to a number of co-conspirators. Does anyone know
10 anyone on this list:

11 Leo Cimino, Ernie Pontiac, Paul Gregorio, Paulie
12 the Arrow, Louis Lepore, Vincent Papa, Frank Stasi, Anthony
13 Pagano, Joe Sharp.

14 Alfred Lally, Joe Flats, Sal Landi, John Dingle,
15 Primrose Cadman, Louis Oliveras, Jack Spada, Ralph Birdie,
16 Martin de Saverio.

17 A person known as Jinx, Marion Starace, John
18 Dugan, Joseph Andretta, Harry Pannirello, John Pannirello,
19 James Provitero, Thomas Lentini, Thomas Dawson, Carmine
20 Pugliesi, George Toutoian, Frank Pellegrino, Basil Hansen,
21 Estelle Hansen, John Barnaba and Ralph Tutino.

22 Does any juror have a hearing problem?

23 Is any juror presently employed or formerly em-
24 ployed by any law enforcement agency?

25 Does any juror have a real close friend or relative

1 MP

2 who is employed by a law enforcement agency?

3 We have a few hands down in the back. Would you
4 folks just remember the question and remember what your
5 answer is, and if you are called you can give your answer at
6 that point.

7 As I indicated to you before, the function of a
8 jury is to decide questions of fact. You will be the sole
9 judges of the fact, and nothing that I might say or that any
10 lawyer might say should encroach upon your role as the exclus
11 ive judge of the facts.

12 When it comes to the law, however, you are going to
13 have to take the law from me. You cannot substitute any
14 notions of your own as to what the law is or what the law
15 should be.

16 At the conclusion of the case, your job is to or
17 will be to determine the guilt or innocence of each defendant
18 If based on all of the evidence and the following principles
19 of law, which I will explain in greater detail later, you
20 have a reasonable doubt as to a defendant's guilt, you should
21 not hesitate to return a verdict of acquittal.

22 Does anyone here have any reservation about accept-
23 ing that kind of a statement of law and doing just that?

24 Ladies and gentlemen, turning now to the individual
25 questions directed to the folks who are in the box, I would

1 MP

2 appreciate it if those in the back would continue to pay
3 attention, so when it comes your turn we can move along
4 as rapidly as possible.

5 BY THE COURT:

6 Q Mr. Gunthorpe, I see you live in Westchester
7 County; is that correct, sir?

8 A (P. J. 2) Yes, sir.

9 Q Have you lived there for the last five years?

10 A Have I been to lunch?

11 Q No. Have you lived in Westchester County for the
12 last five years?

13 A Yes.

14 Q Are you presently employed, sir?

15 A Yes, sir. I am employed by the City School
16 District of New Rochelle.

17 Q Have you been so employed for the last five years?

18 A Yes, sir.

19 Q Are you married?

20 A Yes, sir.

21 Q Is your wife employed?

22 A No, sir.

23 Q Have you ever served on a jury before, in a civil
24 or criminal case or on a grand jury?

25 A I served on one panel here, just before -- just

1 MP

2 last month.

3 Q When you say "Panel", are you talking about a grand
4 jury, sir?

5 A No, sir.

6 Q Did you actually sit on the jury -- What kind of
7 a case was it, to begin with?

8 A It was a criminal case, but before the case was
9 completed, the defendant pleaded guilty.

10 Q Have you ever been the victim of a crime?

11 A No, sir.

12 Q What newspaper do you read?

13 A I read the New York Times, the Daily News and the
14 New Rochelle Standard Star.

15 Q What news programs do you listen to, sir?

16 A Well, generally, Channel 4.

17 Q Have you read or heard anything about this case
18 or the defendants in this case?

19 A I read a little notation in today's --

20 Q All right. I don't want you to go any further. I
21 just want to know: you have read something?

22 A Just a little notation, your Honor.

23 THE COURT: Let me speak generally to everybody.
24 Some of the defendants in this case and, to a lesser extent,
25 this case itself, have been the subject of some publicity,

nd

1 MP

2 and some of you may have read or heard something about it.
3 However, let me tell you that what appears in the press or
4 in the news media about a case or any individual is not
5 evidence. Cases are tried in the courtroom, under prescribe
6 rules of evidence, not in the press, not on radio or on
7 television.

8 You must not be influenced by anything you may have
9 seen or heard outside this courtroom. The only evidence in
10 a case which may be properly considered by you is what you
11 hear from the witnesses or what exhibits actually go
12 into evidence.

13 Mr. Gunthorpe, would you be good enough to come
14 up here, please, and let me just ask you a few more questions.

15 (Discussion at the side bar with Prospective Juror
16 Number 2.)

17 THE COURT: All right. Mr. Gunthorpe, you
18 can sit back in your place.

19 PROSPECTIVE JUROR 2: May I ask one question?

20 THE COURT: Surely.

21 PROSPECTIVE JUROR 2: About this business of
22 staying over night, I have to take pills for high blood
23 pressure.

24 THE COURT: We will take care of that. We will get
25 you the pills and stuff like that. Okay?

1 MP

2 MR. LOPEZ: No problem with the juror. No chal-
3 lenge for cause.

4 THE COURT: Is that one --

5 MR. LOPEZ: One of the small articles.

6 THE COURT: It came in today?

7 MR. LOPEZ: Yes; it did, your Honor, part of the
8 Court exhibits.

9 Your Honor, one of defense counsel has asked me
10 to make the request if your Honor can determine what type
11 of case he served last week on.

12 THE COURT: It seems silly.

13 MR. LOPEZ: As lead counsel --

14 THE COURT: I understand, Mr. Lopez.

15 (In open court:)

16 BY THE COURT:

17 Q Mr. Gunthorpe, what kind of case was it that you
18 were serving on last week?

19 A (P. J. 2) Well, it was a case of the New York Police
20 Department --

21 Q No, no, no. What was the crime charged?

22 A Selling dope.

23 Q In this particular case, the indictment alleges
24 a conspiracy to deal in narcotics and various substantive
25 counts of dealing in narcotics. Do you feel that you can

1 MP

2 sit as a judge of the facts and render a fair -- I am not
3 directing my question only to you. I am directing it to
4 everybody. Do you feel that you can sit as the judge of t
5 facts and render a fair and impartial verdict in a case wh
6 the charge involves narcotics?

7 Does anybody have any doubt in their mind that
8 they can do that?

9 THE COURT: Those folks down in the back: rememb
10 the question, and remember what your answer would have been
11 Those in the jury box, if you have a question in your mind
12 about it, please raise your hand again.

13 Mr. Lopez, will you kindly come up, please.

14 (At the side bar:)

15 MR. CURRAN: It seems to me, your Honor, that you
16 Honor might want to consider inquiring further as to what
17 is behind that.

18 THE COURT: I intend to. That is exactly why I a
19 you two gentlemen up here.

20 MR. LOPEZ: Right. Co-counsel asked me to exerci
21 a challenge for cause freely but only on your Honor's inqui

22 THE COURT: All right.

23 (In open court:)

24 THE COURT: Mr. Jacobson, would you come up here,
25 please, so we can chat here in semi-privacy.

1 MP

2 (Discussion at the side bar with Prospective Juror
3 Number 3.)

4 THE COURT: Did you hear the answer?

5 MR. CURRAN: Yes.

6 THE COURT: Do you challenge?

7 MR. CURRAN: Yes, for cause.

8 MR. LOPEZ: Does he say that he would not follow
9 your Honor's instructions?

10 THE COURT: May not.

11 PROSPECTIVE JUROR 3: I will try to.

12 THE COURT: I understand that. Nobody is asking
13 the impossible from anyone.

14 Mr. Jacobson, step down.

15 (In open court:)

16 THE COURT: Mr. Jacobson is excused.

17 Mr. West, would you come up, please, sir.

18 (Discussion at the side bar with Prospective Juror
19 Number 4.)

20 (In open court:)

21 THE COURT: Mr. West is excused.

22 Mrs. Buckley, I think you had your hand up; is
23 that right?

24 PROSPECTIVE JUROR 5: Yes.

25 THE COURT: All right. Come up.

1 MP

2 (Discussion at the side bar with Prospective Juror
3 Number 5.)

4 THE COURT: Have you heard the conversation?

5 MR. CURRAN: Most of it, your Honor, yes.

6 MR. LOPEZ: In other words, is it the prospective
7 juror's statement that she will not follow the Court's
8 directions?

9 THE COURT: I am going to try to find out. I just
10 want to know whether you fellows are hearing.

11 MR. LOPEZ: So far, yes.

12 MR. CURRAN: So far, yes.

13 (Further discussion at the side bar with
14 Prospective Juror Number 5.)

15 MR. CURRAN: I will challenge for cause.

16 (In open court:)

17 THE COURT: Mrs. Buckley is excused.

18 (At the side bar:)

19 MR. LOPEZ: Your Honor, co-counsel has asked that
20 the Court ask of Juror Number 2 if after the defendant
21 pleaded guilty the Court gave a post mortem statement to
22 the jurors.

23 THE COURT: What the hell is a post mortem state-
24 ment?

25 MR. LOPEZ: I haven't seen it done in the Federal

1 MP

2 Courts, but I know in the State Courts some judges have the
3 practice of calling in the jurors and giving them a big
4 speech: "You see, you have to go through all this ritual",
5 or something to that effect, and they go into it, "but he
6 finally acknowledged he was guilty."

7 It has been severely criticized in the appellate
8 courts.

9 THE COURT: I have never seen it done.

10 MR. LOPEZ: I have seen it done. As a matter of
11 fact, they even chase the defense attorney out of the court-
12 house. In the state court I had one experience where the
13 judge told the jury that he was conned by defense counsel.

14 THE COURT: I don't think I will ask the question,
15 because I don't believe it ever happened here.

16 MR. LOPEZ: The second question as far as Juror
17 Number 2, your Honor, is concerned with what kind of work
18 does he do within the educational department. He says he
19 works for the educational system. Specifically, what kind of
20 work does he do?

21 THE COURT: All right. There is one more juror.

22 MR. LOPEZ: I am sorry.

23 (In open court:)

24 THE COURT: Miss Schwern, would you come up, please.

25 (Discussion at the side bar with Prospective Juror

1 MP

2 Number 8.)

3 THE COURT: Mr. Lopez?

4 MR. LOPEZ: For cause, your Honor.

5 (Further discussion at the side bar with Prospective Juror Number 8.)

7 (In open court:)

8 THE COURT: Miss Schwern is excused.

9 Mr. Clerk, call the next juror, please.

10 THE CLERK: Juror Number 3 is now Meshack Jenkins.

11 THE COURT: Mr. Jenkins, you have heard me discuss
12 the possible conditions under which one would serve on this
13 jury. Would this cause you any great personal inconvenience?

14 PROSPECTIVE JUROR 3: Yes; it would.

15 THE COURT: All right. Come on up.

16 (Discussion at the side bar with Prospective Juror
17 Number 3.)

18 (In open court:)

19 THE COURT: Mr. Jenkins is excused.

20 THE CLERK: Juror Number 3 is now Ellitt A. Cohen.

21 THE COURT: Mr. Cohen, I have outlined, or attempted
22 to, the possibilities of service as a juror in this case.

23 Would you have any difficulty, serious difficulty?

24 PROSPECTIVE JUROR 3: Yes.

25 THE COURT: All right. Come up.

1 MP

2 (Discussion at the side bar with Prospective
3 Juror Number 3.)

4 (In open court:)

5 THE COURT: Mr. Cohen is excused.

6 THE CLERK: Juror Number 3 is now John Diffley.

7 THE COURT: Mr. Diffley, you have heard me outline
8 the possibilities of service on this jury. Would this cause
9 you an insuperable burden, sir?

10 PROSPECTIVE JUROR 3: It would.

11 THE COURT: All right. Come on up and talk about
12 it.

13 (Discussion at the side bar with Prospective Juror
14 Number 3.)

15 (In open court:)

16 THE COURT: Mr. Diffley is excused. Call the next
17 juror, please.

18 THE CLERK: Juror Number 3 is now Ms. Monserrate
19 Acosta.

20 THE COURT: Ms. Acosta, you heard me outline the
21 potentialities of service on this jury. Would this cause
22 you a real insuperable personal burden?

23 PROSPECTIVE JUROR 3: Yes.

24 THE COURT: All right. Come on up.

25 (Discussion at the side bar with Prospective Juror

1 MP

2 Number 3.)

3 (In open court:)

4 THE COURT: Ms. Acosta is excused. Call the next
5 juror, please.

6 THE CLERK: Juror Number 3 is now Mrs. Dorothy
7 T. Manderson.

8 THE COURT: Mrs. Manderson, you have heard my
9 statement as to the possibilities of service as a juror in
10 this case. Would this post an insuperable burden to you,
11 ma'am?

12 PROSPECTIVE JUROR 3: No.

13 THE COURT: All right. Will you take the third
14 seat in the first row, please.

15 THE CLERK: Juror Number 4 is now Mrs. Helen
16 Fogarty.

17 THE COURT: Mrs. Fogarty, you heard my comments
18 about the conditions of serving on this jury. Will this
19 cause you an insuperable personal burden?

20 PROSPECTIVE JUROR 4: Yes.

21 THE COURT: All right. Come on up and chat about
22 it.

23 (Discussion at the side bar with Prospective Juror
24 Number 4.)

25 (In open court:)

1 MP

2 THE COURT: Mrs. Fogarty is excused. Call the
3 next juror, please.

4 THE CLERK: Juror Number 4 is now Mark L. Wunsch.

5 THE COURT: Mr. Wunsch, you have heard my comments
6 about service on this jury. Would this cause you an insuper-
7 able burden, sir?

8 PROSPECTIVE JUROR 4: No.

9 THE COURT: All right. Will you take the fourth
10 seat in the first row.

11 THE CLERK: Juror Number 5 is now Miss Ellen W.
12 Mallett.

13 THE COURT: Miss Mallett, you have heard my com-
14 ments about the conditions of service or possible conditions
15 of service on this jury. Would it cause you an insuperable
16 burden to serve?

17 PROSPECTIVE JUROR 5: Yes.

18 THE COURT: All right. Come on up.

19 (Discussion at the side bar with Prospective Juror
20 Number 5.)

21 (In open court:)

22 THE COURT: Miss Mallett is excused. Call the
23 next juror, please.

24 MR. KING: If your Honor please, may we have a
25 five-minute break?

1 MP

2 THE COURT: Since you asked so nicely, yes. First
3 things first, though. Will the marshal escort the jury
4 panel out of the room first.

5 Ladies and gentlemen, please do not discuss this
6 case among yourselves or stay in the vicinity of anybody
7 else discussing it.

8 (Pause.)

9 THE COURT: All right, gentlemen. We will take ten
10 too.

11 (Recess.)

12 THE COURT: Mr. Clerk, would you call the next
13 juror, please.

14 THE CLERK: Juror Number 5 is now Robert H. Boyle.

15 THE COURT: Mr. Boyle, you understand the circum-
16 stances surrounding service on this jury. Would this cause
17 you an insuperable burden?

18 PROSPECTIVE JUROR 5: No.

19 THE COURT: Call the next juror, please.

20 THE CLERK: Juror Number 8 is now George C. Hoke.

21 THE COURT: Mr. Hoke, you understand the circum-
22 stances surrounding service on this jury. Would this cause
23 an insuperable burden to you, sir?

24 PROSPECTIVE JUROR 8: It would.

25 THE COURT: All right. Come on up.

1 MP

2 (Discussion at the side bar with Prospective Juror
3 Number 8.)

4 (In open court:)

5 THE COURT: Mr. Hoke is excused. Call the next
6 juror, please.

7 THE CLERK: Juror Number 8 is now Thomas P.
8 Cornelius.

9 THE COURT: Mr. Cornelius, you understand the
10 possible circumstances surrounding service on this jury.
11 Would it cause you an insuperable burden, sir?

12 PROSPECTIVE JUROR 8: No.

13 BY THE COURT:

14 Q Mrs. Manderson, you live in the Bronx now?

15 A (P. J. 3) Yes.

16 Q Have you lived there for the last five years,
17 ma'am?

18 A Yes.

19 Q Are you presently employed?

20 A Yes.

21 Q What do you do?

22 A I am a key punch operator at Chase Manhattan Bank.

23 Q Have you been employed by the bank for five years?

24 A No.

25 Q How long have you been working there?

1 MP

2 A Four months.

3 Q Before that time, did you work as a key punch
4 operator?

5 A As a key punch supervisor.

6 Q Where was that?

7 A P.C.S. Data Processing.

8 Q Are you married?

9 A Yes, divorced.

10 Q Have you ever been the victim of a crime?

11 A No.

12 Q Have you ever served on a jury before?

13 A Yes; I did.

14 Q When was that?

15 A Monday and yesterday, part of yesterday.

16 Q What kind of a case was it on Monday?

17 A It was a criminal case.

18 Q Do you recall the charge?

19 A Yes. It involved narcotics.

20 Q Did that case go to a verdict?

21 A No; it did not. The defendant pleaded guilty.

22 Q The case yesterday: what kind of case was that?

23 A I beg your pardon?

24 Q The case yesterday.

25 A That was a continuation of that case.

1 MP

2 Q I understand.

3 By the way, Mr. Gunthorpe, you mentioned that you
4 work for the New Rochelle School System; is that right?

5 A (P. J. 2) Yes, sir.

6 Q What do you do for the school system?

7 A I am the foreman of the carpenters.

8 Q Mr. Wunsch, you also live in the Bronx?

9 A (P. J. 4) Yes, sir.

10 Q How long have you lived in the Bronx?

11 A Twenty-two years.

12 Q Are you presently employed, sir?

13 A Yes.

14 Q What kind of work do you do?

15 A I am a paraprofessional in a reading program at
16 Samuel Gompers High School.

17 Q Have you worked at that for the last five years?

18 A No.

19 Q Prior to that, you were a student?

20 A Prior to working at Gompers, I was a juvenile
21 counselor at Spofford Juvenile Center.

22 Q How long were you there?

23 A Six months.

24 Q And prior to that?

25 A I was unemployed for a while, and I was a student

1 JHP

2 before that.

3 Q Are you married?

4 A No.

5 Q Have you ever been the victim of a crime?

6 A No.

7 Q Have you ever served on a jury or a grand jury
8 before?

9 A Yes. I served on the same jury that Mrs. Manderson
10 served on.

11 Q Mr. Boyle, what county do you live in?

12 A (P. J. 5) Orange.

13 Q Orange County?

14 A Yes.

15 Q Have you lived up in Orange County for the last
16 five years, sir?

17 A Yes, sir.

18 Q Are you presently employed?

19 A Yes; I am.

20 Q What do you do, sir?

21 A I am an adjuster for the Empire National Bank.

22 Q How long have you worked with the Empire National
23 Bank, sir?

24 A Approximately eight months.

25 Q What did you do prior to that?

1 JHP

2 A I drove a truck.

3 Q How long were you a teamster or a truck driver?

4 A Approximately four years.

5 Q Are you married, sir?

6 A Yes; I am.

7 Q Does your wife work?

8 A Yes; she does.

9 Q What does she do, sir?

10 A She is a hostess in a restaurant.

11 Q Have you ever been the victim of a crime, sir?

12 A No; I have not.

13 Q Have you ever served on a jury or grand jury be-
14 fore this?

15 A Yes; I have. The same one that was mentioned
16 previously.

17 Q Mr. Cornelius, you live in the Bronx. Have you
18 lived there for the last five years?

19 A (P. J. 8) Yes; I have.

20 Q Are you presently employed, sir?

21 A Right. New York Transit Authority.

22 Q What do you do for the Transit Authority?

23 A I am a tower man.

24 Q You handle the switches and the signals?

25 A That's correct.

1 JHP

2 Q Are you married?

3 A Yes; I am.

4 Q Is your wife employed?

5 A She is a student.

6 Q Have you ever been the victim of a crime?

7 A No.

8 Q Have you ever served on a jury before?

9 A This week I been serving.

10 Q This week?

11 A Yes.

12 Q Did you serve on the same case as the other folks?

13 A No. It was a bribery case.

14 Q You served on a bribery case?

15 A Yes.

16 Q Did that case go to a conclusion?

17 A Yes; it did.

18 Q What was the verdict there?

19 A It was guilty.

20 Q Mr. Dicklares, you live in Manhattan; right?

21 A (P. J. 10) Yes, sir.

22 Q Have you lived there for the last five years?

23 A Yes; I have.

24 Q Are you presently employed, sir?

25 A Yes; I am.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q What do you do?

A An engineer.

Q You are an engineer?

A Yes, sir.

Q Are you married?

A No; I am not.

Q Have you ever been the victim of a crime?

A No, sir.

Q Have you served on a jury before?

A Yes; I have. Yesterday.

Q What kind of a case was that?

A It was a case of a person accusing a doctor in a hospital for some malpractice, malpractice suit.

Q It was a civil case?

A Yes.

Q Did it go to a verdict, sir?

A It was settled out of court.

Q Mrs. Jones, you live in Manhattan; is that correct?

A (P. J. 12) Yes; I do.

Q Have you lived in Manhattan for the last five years?

A For the last three years.

Q Where did you live -- Prior to that, did you live in the City of New York or outside?

A Yes; I did.

1 JHP

2 Q You lived in a different borough?

3 A Right.

4 Q Are you presently employed?

5 A Yes.

6 Q What do you do?

7 A I am a teacher's aide.

8 Q In the New York City School System?

9 A No. For Headstart.

10 Q Is your husband employed?

11 A Yes; he is.

12 Q What does he do?

13 A He is a truck driver for Pinchik's.

14 Q Have you ever been the victim of a crime?

15 A No; I have not.

16 Q Have you ever served on a jury before?

17 A Yes; I have.

18 Q When was that?

19 A I served on the same jury that Mr. Cornelius did.

20 Q I have to go back, because I forgot some questions.

21 Mrs. Manderson, would you tell us what newspaper
22 you read?

23 A (P. J. 3) I read the News and the Post.

24 Q And what TV programs do you watch?

25 A Channel 2, 4, 7.

1 JHP

2 Q You switch around a lot?

3 A Yes.

4 Q Tell me, ma'am, have you seen or heard anything
5 about this case or these defendants?

6 A No; I have not.

7 Q Mr. Wunsch, what newspaper do you read?

8 A (P. J. 4) The Times and the Post.

9 Q And what TV news programs do you watch?

10 A Usually Eye Witness News.

11 Q Have you seen or heard anything about this case or
12 these defendants?

13 A Just heard their names mentioned.

14 Q You heard their names?

15 A I have heard -- Yes.

16 Q Mr. Boyle, what newspaper do you read, sir?

17 A (P. J. 5) Middletown Times-Herald-Record.

18 Q And what TV news or radio news programs to you
19 watch or listen to?

20 A I don't watch TV.

21 Q That takes a lot of willpower.

22 Have you heard or read anything about this case or
23 these defendants?

24 A Not to date, I have not.

25 Q Mr. Cornelius, what newspaper to you read?

1 JHP
2 A (P. J. 8) The Daily News, the Post.

3 Q What TV news programs or radio news programs do
4 you watch or --

5 A It varies a lot. 2, 4, 7.

6 Q Tell me: have you read or heard anything about this
7 case or these defendants?

8 A Not that I recall.

9 Q Mr. Dicklares, what newspaper do you read?

10 A (P. J. 10) The regular periodicals hardly ever, but
11 I do read the Wall Street Journal. The other periodicals,
12 practically never.

13 Q Mr. Dicklares, what TV news program, if any, do you
14 watch?

15 A I don't watch any of them.

16 Q Do you ever listen to the news on radio?

17 A Very rarely.

18 Q Have you ever seen anything about this case or
19 heard anything about this case or these defendants?

20 A Not a word.

21 Q Mrs. Jones, what newspaper do you read?

22 A (P. J. 12) The Daily News.

23 Q And what TV news do you watch?

24 A There is no special.

25 Q But you do dial around the channels?

1 JHP

2 A Yes.

3 Q Mrs. Jones, have you seen anything or heard any-
4 thing about this case or these defendants?

5 A No; I have not.

6 Q Mr. Wolf, you live in New York County, in Manhatta
7 is that right?

8 A (P.J. 14) Yes.

9 Q Have you lived there for the last five years?

10 A No; just under three years.

11 Q Where did you live before that, sir?

12 A Florida, two years.

13 Q When it starts to snow up here, do you miss
14 Florida?

15 Tell me, are you presently employed?

16 A No. I am retired.

17 Q Before you retired, sir, what did you do?

18 A I was a manager of an electric appliance company.

19 Q Are you married?

20 A Yes, sir.

21 Q Does your wife work at all?

22 A Not employed.

23 Q Have you ever been the victim of a crime?

24 A No, sir.

25 Q Have you ever served on a jury before?

1 JHP

2 A Yes.

3 Q What kind of case was it?

4 A Criminal case.

5 Q When was that, sir?

6 A Last week.

7 Q What kind of case was it?

8 A It was a conspiracy to distribute narcotics.

9 Q Did the case go to a verdict?

10 A Yes, sir.

11 Q What was the verdict?

12 A Not guilty.

13 Q What newspaper do you read?

14 A New York Times and the New York Daily News.

15 Q Do you watch the TV news programs?

16 A Yes. Station 2 and 4.

17 Q Have you ever seen anything or heard anything or
18 read anything about this case or these defendants?

19 A No.

20 MR. LOPEZ: May I approach the bench?

21 THE COURT: Sure.

22 (At the side bar:)

23 MR. LOPEZ: Two request, your Honor. Number 4,
24 Mr. Sunsich, said that all he heard was names regarding the
25 news. I wonder if your Honor could --

1 JHP

2 THE COURT: I will have him up, and we will talk
3 about it.

4 MR. LOPEZ: Yes. The second request is this, your
5 Honor: In view of the fact that after we exercised challenge
6 there were three or four jurors that were excused for cause
7 by the Government and the defense, your Honor, on questions
8 that your Honor had actually propounded originally when they
9 were selected and after the defense exercised their challenge
10 would your Honor reconsider the matter of the three extra
11 challenges?

12 THE COURT: No. Let me put it this way: I am re-
13 considering. I can see the arguments for it.

14 MR. LOPEZ: The two arguments being we had at
15 least three or four jurors excused for cause after peremptory
16 challenges had been exercised; the second reason being al-
17 though we did exercise challenges against the alternate
18 jurors, as your Honor so well pointed out, we did so in the
19 belief that we had the additional three challenges. It was
20 on that basis.

21 So what the defense is asking is that your Honor
22 consider his position in view of what has transpired this
23 afternoon.

24 We realize the Court has been generous, your
25 Honor, but we had been counting on those three challenges.

1 JHP

2 We are hopeful that your Honor will reconsider his decision.

3 THE COURT: All right. Let's see how things go.

4 You want me to check on --

5 MR. LOPEZ: Mr. Wunsch, Number 4.

6 (In open court:)

7 THE COURT: Mr. Wunsch, would you come up here for
8 a minute, please.

9 (Discussion at the side bar with Prospective Juror
10 Number 4.)

11 MR. LOPEZ: Thank you very much.

12 MR. CURRAN: Has your Honor inquired of the new
13 jurors in the box whether they would answer all the questions
14 the same way as the questions you addressed to the jurors
15 previously in the box? I frankly don't recall.

16 THE COURT: I believe I did. If I did not do it,
17 I will do it again. That's easy enough.

18 MR. CURRAN: For example, your Honor, we had the
19 question yesterday, which I don't believe your Honor
20 asked today, having to do with possible prejudice against the
21 Government as a result of developments in Washington.

22 THE COURT: I will ask the question.

23 MR. CURRAN: I am also not sure, your Honor,
24 whether you asked the group that just went in whether they
25 would answer all the questions which you addressed to the

1 JHP

2 panel in the same way.

3 THE COURT: All right.

4 (In open court:)

5 THE COURT: Ladies and gentlemen, the new jurors
6 who have just taken their place in the jury box: let me ask
7 you:

8 Before, when I was addressing the entire jury
9 panel, I asked certain questions, expecting negative answers,
10 and some people raised their hands. I must admit I did not
11 keep a tally on who did or how many people did raise their
12 hands.

13 Would you have had an affirmative answer to any
14 of those questions?

15 All right. There is not other thing.

16 Recently, there has been a lot of talk in the press
17 and on television about allegations of misconduct by people
18 in the Government in Washington. Has any juror, through
19 anything they have seen or heard, developed a bias against
20 the United States Government, the Department of Justice,
21 because of anything that you have seen or heard on television
22 or read in the newspapers concerning whatever is going on in
23 Washington?

24 All right, Mr. Curran.

25 MR. CURRAN: The Government waives one challenge,

1 JHP
2 your Honor.

3 THE CLERK: Juror Number 4, Mark L. Wunsch, is
4 excused.

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 1 jhel

2 Juror Number 4 is now William D. Maddox.

3 THE COURT: Mr. Maddox, you have heard the condition
4 of service on this jury. Would it cause you a real serious
5 problem, sir?

6 PROSPECTIVE JUROR 4: No.

7 BY THE COURT:

8 Q All right. Mr. Maddox, you live in the Bronx now,
9 is that correct?

10 A(PJ 4) Yes.

11 Q Have you lived there for the last five years?

12 A Yes, I have.

13 Q Are you presently employed, sir?

14 A Yes.

15 Q What is your occupation?

16 A A ticket clerk for Penn Central.

17 Q Are you the fellow who sells them or do you punch?

18 A Sells them.

19 Q Are you married, sir?

20 A Yes, I am.

21 Q Is your wife employed?

22 A No, she's a housewife.

23 Q I guess that's a full time job anyway, right? I
24 think the women on the jury would agree with me more than you

25 Mr. Maddox, have you ever been the victim of a

1 JEHL

2 crime?

3 A No, I haven't.

4 Q Have you ever served on a jury before?

5 A Yes, I have.

6 Q Can you tell us when?

7 A Today.

8 Q Before today. In other words, this morning?

9 A Yes.

10 Q What kind of case was that, sir?

11 A Bribery.

12 Q Did the case go to a verdict?

13 A Yes, it did.

14 Q What was the verdict?

15 A Guilty.

16 Q What newspapers do you read?

17 A The Daily News.

18 Q And what TV news programs or radio news programs --

19 A Channel 4.

20 Q Have you ever read anything or seen anything or ..
21 heard anything about this case or these defendants before, sir?

22 A No, I haven't.

23 Q You heard the questions which I directed generally
24 to the panel to which I expected negative answers. Would all
25 of your answers have been no also, sir?

3 1 Jhel

2 A Yes.

3 Q Yes, they would?

4 A Yes.

5 MR. LOPEZ: Your Honor, could we use the
6 conference room?

7 THE COURT: Defense counsel are going into the
8 conference room right now.

9 (Pause.)

10 THE CLERK: Juror Number 2, Archie Gunthorpe, is
11 excused.

12 Juror Number 4, William Maddox, is excused.

13 Juror Number 10, Vincent Dicklares, is excused.

14 Juror Number 11, Mrs. Effie Grant, is excused.

15 Juror Number 13, Frank Worth, is excused.

16 THE COURT: Mrs. Grant, gentlemen, thank you
17 very much for your willingness to serve. Would you be good
18 enough to take your cards and return to the central jury
19 pool across the hall.

20 THE CLERK: Juror Number 2 is now Otto A. Wantuch

21 THE COURT: Mr. Wantuch, you have heard my commen
22 about the conditions of service on this jury. Do you think
23 that it would cause a real inconvenience for you?

24 PROSPECTIVE JUROR NUMBER 2: It would.

25 THE COURT: All right. Come on up, please.

3
1 jhel

2 Discussion at the side bar with Prospective
3 Juror Number 2.)

4 (In open Court.)

5 THE CLERK: Juror Number 2 is now Mrs. Genoa Cabanas.

6 THE COURT: Mrs. Ca banas, do you fell that vou
7 would be able to serve on this jury without undue hardship?

8 PROSPECTIVE JUROR NUMBER 2: No.

9 THE COURT: All right. Come on up.

10 (Discussion at the side bar with Prospective
11 Juror Number 2.)

12 (In open Court.)

13 THE COURT: Call the next juror, please.

14 THE CLERK: Juror Number 3 is now Clarence W.
15 Babcock.

16 THE COURT: Mr. Babcock, would it cause you a great
17 inconvenience to serve on this jury, sir?

18 PROSPECTIVE JUROR NUMBER 2: Yes.

19 THE COURT: All right. Come on up.

20 (Discussion at the side bar with Prospective
21 Juror Number 2.)

22 (In open Court.)

23 THE COURT: Call the next juror.

24 THE CLERK: Juror Number 2 is now Thomas Muraco.

25 THE COURT: Mr. Muraco, would it cause you any
great inconvenience to serve on this jury?

2

PROSPECTIVE JUROR NUMBER 2: Yes.

3

THE COURT: All right. Come up, let's chat about it.

5

(Discussion at the side bar with Prospective Juror Number 2.)

7

(In open Court.)

8

THE COURT: Call the next juror.

9

THE CLERK: Juror Number 2 is now James Marr.

10

THE COURT: Mr. Marr, would it cause you a great inconvenience to serve on this jury?

12

PROSPECTIVE JUROR NUMBER 2: Yes.

13

THE COURT: All right. Come up.

14

(Discussion at the side bar with Prospective Juror Number 2.)

16

(In open Court.)

17

THE COURT: Call the next juror, please.

18

THE CLERK: Juror Number 2 is now Miss Linnie Le Faucheur.

20

THE COURT: Miss Le Faucheur, you have heard the conditions under which service on this jury might be. I say might be. Do you think that will cause you a real great personal burden?

23

24

PROSPECTIVE JUROR NUMBER 2: Yes.

25

THE COURT: All right. Come up.

5 1 Jhel

2 (Discussion at the side bar with Prospective
3 Juror Number 2.)

4 (In open Court.)

5 THE COURT: Call the next juror.

6 THE CLERK: Juror Number 2 is now Ismael Rivera.

7 THE COURT: Mr. Rivera, you have heard the con-
8 ditions of jury service or what might be. Would this cause
9 you a great personal inconvenience, sir?

10 PROSPECTIVE JUROR NUMBER 2 : It's possible.

11 THE COURT: Yes or no?

12 PROSPECTIVE JUROR NUMBER 2: Yes.

13 THE COURT: All right. Come up.

14 (Discussion at the side bar with Prospective
15 Juror Number 2.)

16 (In open Court.)

17 THE COURT: Call the next juror, please.

18 THE CLERK: Juror Number 2 is now Mrs. Marie Plotkin.

19 THE COURT: Mrs. Plotkin, you have hears the
20 conditions under which service on this jury would go. Would
21 it cause you a great personal inconvenience?

22 PROSPECTIVE JUROR NUMBER 2: Yes.

23 THE COURT: All right. Come up.

24 (Discussion at the side bar with Prospective
25 Juror Number 2.)

6

1 jhel

2

(In open Court.)

3

THE COURT: Call the next juror, please.

4

THE CLERK: Juror number 2 is now Joseph Toscano.

5

6

THE COURT: Mr. Toscano, you have heard the conditions of service on this jury. Would it cause you a real problem, sir?

7

8

PROSPECTIVE JUROR NUMBER 2: Yes.

9

THE COURT: All right. come on up.

10

11

(Discussion at the side bar with Prospective Juror Number 2.)

12

(In open Court.)

13

14

THE COURT: Mr. Toscano, take the second seat in the first row.

15

THE CLERK: Juror Number 4 is now Bernard Lynch.

16

17

18

THE COURT: Mr. Lynch, you have heard the conditions of service on this jury. Would that cause you an in superable burden, sir?

19

PROSPECTIVE JUROR NUMBER 4: Yes.

20

THE COURT: All right. Come up.

21

22

(Discussion at the side bar with Prospective Juror Number 4.)

23

(In open Court.)

24

THE COURT: Call the next juror, please.

25

THE CLERK: Juror Number 4 is now David A. Ross.

7 1 jhel

2 THE COURT: Mr. Ross, you have heard the conditions
3 of service on this jury. Would it cause you any problem, sir?

4 PROSPECTIVE JUROR NUMBER 4: Yes.

5 THE COURT: Come on up.

6 (Discussion at the side bar with Prospective
7 Juror Number 4.)

8 (In open Court.)

9 THE COURT: Call the next juror, please.

10 THE CLERK: Juror number 4 is now Edward McCray.

11 THE COURT: Mr. McCray, you have heard the possible
12 conditions of service on this jury. Would it cause you an
13 insuperable burden, sir?

14 PROSPECTIVE JUROR NUMBER 4: No, sir.

15 THE COURT: All right, come up -- was that no.

16 MR. FISHER: He said no, your Honor. Conditioned
17 reflex.

18 THE COURT: All right. Call the next juror.

19 THE CLERK: Juror number 10 is now William
20 Murphy, Sr.

21 THE COURT: Mr. Murphy, would service on this jury
22 cause you any real insuperable burden, sir?

23 PROSPECTIVE JUROR NUMBER 10: Yes.

24 THE COURT: All right. Come up.

25 (Discussion at the side bar with Prospective

8

1 jhel

2 Juror Number 10.)

3 (In open Court.)

4 THE COURT: Call the next juror, please.

5 THE CLERK: Juror number 10 is now Mrs. Adelle
6 Walker.7 THE COURT: Mrs. Walker, you have heard the condition
8 of jury service. Would you be able to serve on this jury?9 PROSPECTIVE JUROR NUMBER 10: No, it would cause
10 me a hardship.

11 THE COURT: All right. Come up.

12 (Discussion at the side bar with Prospective
13 Juror Number 10.)

14 (In open Court.)

15 THE COURT: Call the next juror, please.)

16 THE CLERK: Juror number 10 is now Marie M.
17 Raffetto.18 THE COURT: Mrs. Raffetto, would serving on this
19 jury cause you a real serious insuperable burden? Let's put
20 it that way.

21 PROSPECTIVE JUROR NUMBER 10: Yes.

22 THE COURT: All right. come up.

23 (Discussion at the side bar with Prospective
24 Juror Number 10.)

25 (In open Court.)

1 jhel

2 THE COURT: Call the next juror.

3 THE CLERK: Juror number 10 is now Joseph
4 Reznikoff.

5 THE COURT: Mr. Reznikoff, you have heard the
6 conditions of serving on this jury. Would it cause you an
7 insuperable burden to serve, sir?

8 PROSPECTIVE JUROR NUMBER 10: Yes.

9 THE COURT: All right. Come on up.

10 (Discussion at the side bar with Prospective
11 Juror Number 10.)

12 (In open Court.)

13 THE COURT: Call the next juror, please.

14 THE CLERK: Juror Number 10 is now Mrs. Marjorie
15 Harley.

16 THE COURT: Mrs. Harley, you have heard the con-
17 ditions of service. Would this cause an insuperable burden
18 for you, Ma'am.

19 PROSPECTIVE JUROR NUMBER 10: Yes, it would.

20 THE COURT: Come up.

21 (Discussion at the side bar with Prospective
22 Juror Number 10.)

23 (In open Court.)

24 THE COURT: Call the next juror.

25 THE CLERK: Juror Number 10 is now Vincent C. Pitts.

10

1 jhel

2 THE COURT: Mr. Pitts, would service on this jury
3 cause you an insuperable burden, sir?

4 PROSPECTIVE JUROR NUMBER 10: Yes, your Honor.

5 THE COURT: Come up.

6 (Discussion at the side bar with Prospective
7 Juror Number 10.)

8 (In open Court.)

9 THE COURT: Young lady, you are going to be the
10 next juror called. I don't know what your name is, but I
11 am sure you are.

12 THE CLERK: Juror number 10 is now Mrs. Gloria
13 Munoz.

14 THE COURT: First of all, I don't think we correct
15 pronounced your name.

16 PROSPECTIVE JUROR NUMBER 10: That's right, Munoz.

17 THE COURT: Ma'am, would you have or would you suf
18 greatly by service on this jury ?

19 PROSPECTIVE JUROR NUMBER 10: No, I cannot serve.

20 THE COURT: Come up.

21 (Discussion at the side bar with Prospective
22 Juror Number 10.)

23 (In open Court.)

24 THE COURT: Mr. Toscano, you live in Rockland
25 County, sir?

1 jhel

2 PROSPECTIVE JUROR NUMBER 2: Yes.

3 BY THE COURT:

4 Q How long have you lived there?

5 A (PJ 2) Three years.

6 Q Where did you live before Rockland County?

7 A Inthe Bronx.

8 Q Are you presently employed?

9 A Retired.

10 Q Before you retired what was your job?

11 A Truck Driver, I. T. T. Continental Baking Company.

12 Q You are married, aren't you, sir?

13 A Yes, sir.

14 Q Is your wife working?

15 A No.

16 Q Have you ever been the victim of a crime?

17 A NO.

18 Q Have you ever been a juror before, Mr. Toscano?

19 A Yes, yesterday and the day before.

20 Q What kind of case was it?

21 A A bribe, a bribery case.

22 Q Did it go through to a verdict?

23 A Well, I was an alternate.

24 Q You were an alternate and you were excused before
25 the jury retired?

12

1 hel

2

A Yes.

3

Q What newspapers do you read, sir?

4

A The Daily News.

5

Q What TV programs do you watch?

6

A Two and Four; Stations Two and Four.

7

Q Have you ever heard about this case or any of these

8

defendants or read about them or seen anything on television,

9

anything at all?

10

A No.

11

Q The other questions which I asked when you were

12

seated down in back, which I said I expected a negative

13

answer, do you have any where you have a yes answer instead

14

a no?

15

A No.

16

THE COURT: Mr. McCray, you live up in Westchester

17

County?

18

PROSPECTIVE JUROR NUMBER 4: Yes, your Honor.

19

BY THE COURT:

20

Q Have you lived there for the last 5 years?

21

A (PJ4) Yes, your Honor.

22

Q Are you presently employed?

23

A Yes, your Honor.

24

Q What kind of work do you do?

25

A I am a communications draftsman with A T & T.

1 jhel

2 Q Are you married, sir?

3 A No, I am not.

4 Q Tell me, have you ever been a victim of a crime?

5 A No, your Honor.

6 Q Have you ever served on a jury or a grand jury
7 before?

8 A Yes, I served Monday through this morning. I was
9 on a bribery charge, the same as this man.

10 Q Were you the other alternate or did you participate
11 in the deliberations?

12 A I participated in the deliberations.

13 Q What was the verdict there?

14 A It was guilty.

15 Q What newspaper do you read, sir?

16 A Daily News.

17 Q What TV or radio news programs do you watch?

18 A Mostly Channel 7, Eye Witness News.

19 Q Have you read anything or heard or seen anything
20 about this case or any of these defendants?

21 A Not that I can recall.

22 Q You have heard the questions I asked of the entire
23 panel where I expected a negative answer. Did you have a yes
24 answer at any time, sir?

25 A No, your Honor.

14

1

jhel

2

3

4

THE COURT: Mr. McCray or Mr. Toscano, do you know of any reason why you would be unable to reach a completely fair verdict in this case, fair and impartial?

5

6

7

All right. Ladies and gentlemen, I am going to request you step into the jury room. The marshal will escort you back there. I want to talk to the attorneys here.

8

(The jury left the courtroom.)

9

THE COURT: Mr. King, you have a problem?

10

11

12

13

MR. KING: If your Honor please, I would like to direct your Honor's attention to just one fact here, and that is sequestration. There was some question about it last night.

14

15

16

17

18

I am constrained to observe that the question you asked about a motion was asked yesterday and my recollection is that the two young ladies, I don't know whether it's 2 or 3 and 6, heard the same questions you asked last night that you asked today and they showed no effect about it at all.

19

20

21

22

Now, my guess is -- and I think it's a rather educated one -- that when they went home and talked about it, the jury they were on, they were strongly advised not to sit on it. I could come to no other conclusion.

23

24

25

For that reason, Judge, I earnestly urge you to consider sequestration from this point on, so that we don't have a repetition of what we had today.

15

1 jhel

2 MR. CURRAN: YOur Honor, the government has no
3 objection, of course.

4 THE COURT: I guessed that. Does everybody join
5 in that motion?

6 MR. FISHER: No, your Honor.

7 MR. ROSENBERG: Your Honor, I won't object if they
8 went home, provided we have a representation from the
9 government that there won't be any adverse publicity between
10 now and the time they come back.

11 THE COURT: The record should reflect that even
12 counsel who made the motion ended up laughing at it.

13 MR. FISHER: If your Honor please, I am concerned
14 about those jurors who were just chosed tonight. I wonder
15 how they would be able to get some personal belongings and
16 the like. I personally would be willing to let those who
17 were just selected today at least go home tonight.

18 MR. ELLIS: Your Honor, I don't think we ought to
19 separate the jury. I think the kind of publicity we are
20 likely to have is just that the jury selection is progressing
21 slowly. I don't see any material harm in letting them go.
22 I think we ought to.

23 MR. ROSENBERG: Are we going to continue tomorrow?

24 THE COURT: Yes. Would you believe it, I have a
25 new panel coming in?

16 1 jhel

2 MR. ROSENBERG: That is very encouraging.

3 THE COURT: I am going to let the jury go with the
4 same instructions I gave them last night. You gentlemen
5 insist on arguing your relevancy motion tomorrow morning?

6 MR. LOPEZ: Yes, your Honor.

7 THE COURT: I guess with the 18 guys it will go all
8 morning. How long do you expect to go?

9 MR. LOPEZ: I should imagine that for the defense
10 it will take about an hour.

11 THE COURT: How long does the government expect?

12 MR. PHILLIPS: No more than ten minutes, your
13 Honor, unless they raise a lot of arguments I am not prepared
14 to answer. I have not received a memorandum from Mr. Lopez,
15 which I would like to do before we present our argument.

16 THE COURT: When can you have it in?

17 MR. LOPEZ: I was expecting to receive it this
18 afternoon, your Honor. I guess I could get it to Mr.
19 Phillips at 9:15 tomorrow morning. He may have to go to the
20 library after he reads it.

21 THE COURT: That is no problem. I am sure he has
22 been there before.

23 MR. PHILLIPS: We will be ready a quarter of ten
24 to argue.

25 THE COURT: I think I will let the jury go until

17 1 jel

2 tomorrow afternoon. I expect we will hear argument starting
3 at 10:30. tomorrow.

4 MR. DOWD: Judge, I wanted to ask you if you could
5 make some decision at least by tomorrow with respect to
6 Saturdays.

7 THE COURT: I will tell you this much, Mr. Dowd:
8 it won't be this Saturday.

9 MR. DOWD: All right.

10 THE COURT: I thought Mr. Richman was going to make
11 that request.

12 MR. RICHMAN: Your Honor, I haven't said a thing
13 yet.

14 THE COURT: Does everybody understand it is 10:30
15 tomorrow morning?

16 I am going to give the jury the same instructions
17 I did last night.

18 MR. WARREN: I just want to not that your Honor
19 failed to ask the new jurors and I think also the jurors who
20 were new on the last challenge whether they had any friends
21 who were connected with law enforcement.

22 THE COURT: I asked them that when they were sitting
23 down in the back.

24 MR. WARREN: I think a lot of people who were
25 sitting in the back weren't responding in any way.

18

1 jhel

2

3

THE COURT: I thought they were. At least, they were supposed to be.

4

(Jury present.)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

THE COURT: Ladies and gentlemen, I did discuss with you the possibility of sequestration, which means that the government would provide lodging and food for you. We could start it right now. In fact, we did have sequestration one night this week during the selection of this jury. We are not going to have it tonight, if you will agree to three conditions.

Condition number one: don't read a newspaper. That is simple enough.

Condition number two: don't watch any TV news programs tonight.

Condition number three is, don't discuss this case with anyone, and I underline the word "anyone."

Truthfully, you have not heard one shred of evidence in this case and you don't really know what it is about yet, nor do I. Don't discuss the case with anyone; don't stay in the vicinity of any person who is discussing the case. Come in with a clean slate, so that when the case does start you can really absorb the evidence as it comes in.

With that, ladies and gentlemen, I bid you good evening. I would appreciate it very much if you would be

19 1 jhel

2 back here tomorrow at 2:00, in the jury room. In fact, let's
3 make it at 10 minutes to two, so that you will be sure to be
4 here to start at 2:00.

5 Now, those of you who have suitcases, who brought
6 a suitcase in, the marshal will take that suitcase from you
7 and put it in a large safe downstairs, so that you don't have
8 to carry it back and forth.

9 PROSPECTIVE JUROR NUMBER 14: Should we bring
10 suitcases?

11 THE COURT: Those of you who are new should bring
12 a suitcase. Pack it as if you would for travel.

13 All right, ladies and gentlemen. Make sure when
14 you come back tomorrow it is back to the jury room that you
15 have been in. I think 123 is the number.

16 (The jury left the courtroom.)

17 THE COURT: All right, gentlemen. We stand adjourned
18 until 10:00

19 MR. LEIGHTON: May the defendants be excused for
20 the oral arguments tomorrow?

21 THE COURT: Oh, sure, unless they want to come. If
22 They want to come, it's up to them.

23 (Adjourned to 10:30 AM, January 24th, 1974.)

24 oOo

25

1 MP

2 UNITED STATES OF AMERICA

3 vs

73 Crim 1099

4 CARMINE TRAMUNTI et al.,

5 Defendants.

6 New York, N. Y.

7 January 24, 1974

8
9 (Proceedings continued:)

10 * * *

11 (Prospective jurors in box:)

12 THE COURT: Mr. Curran, Mr. Lopez and Mr. .

13 Christiano, come up here.

14 (Discussion at the side bar.)

15 (In open court:)

16 THE COURT: Mr. Clerk, will you call the panel
17 of jurors, please.

18 (A panel of prospective jurors entered the court-
19 room.)

20 THE COURT: Mr. Clerk, will you swear in the
21 veniremen.

22 (The panel of prospective jurors was duly sworn.)

23 THE COURT: Ladies and gentlemen, I know that you
24 have come in today to this jury panel in response to a deep-
25 seated sense of duty which you have as citizens of the United

T2 pm

States. I am sure that if you or someone who is near and dear to you was accused of some crime, you would want somebody on that jury with a frame of mind just like yours.

I know that generally, however, you come expecting to sit for two weeks of jury duty. I am going to tell you at the outset that this case might last from four to six weeks. It should further be understood, before anyone is called up, that there is a possibility that this jury may be sequestered.

Now, what does that mean?. That is another one of those twenty-five-dollar words that lawyers and judges like to use. Basically, it means that you will not go home at night after the trial but that the Government will supply you with food and lodging.

Now, as your name is called, before you enter the jury box, I am going to ask you whether the conditions of service on this jury would place an insuperable burden on you. When I say "on you", I mean you personally, you and your family life, of course. If it's just the fact that your boss might be put out because you won't be there for a period of time, that doesn't count. What I am talking about is you and your family.

All right, Mr. Clerk. Call the first juror, please.

THE CLERK: Juror Number 6 is now Delia D. Davis.

1 MP

2 THE COURT: Is that Miss or Mrs. Davis?

3 PROSPECTIVE JUROR 6: Mrs.

4 THE COURT: All right. Mrs. Davis, would you come
5 around this way, towards the center aisle.

6 Mrs. Davis, you understood my comments about the
7 conditions of service on this jury. Would it place an in-
8 superable burden on you, ma'am?

9 PROSPECTIVE JUROR 6: No.

10 THE COURT: All right. Would you take the last
11 seat in the first row, please.

12 THE CLERK: Juror Number 10 is now Robert Kirsch.

13 THE COURT: Do you pronounce your name correctly,
14 sir?

15 PROSPECTIVE JUROR 10: Kirsch.

16 THE COURT: Mr. Kirsch, you have heard the possible
17 conditions of service on this jury. Would it place an
18 undue burden on you, sir?

19 PROSPECTIVE JUROR 10: No; it would not.

20 THE COURT: All right. Would you take the third
21 seat in there, in the second row, please.

22 THE CLERK: Juror Number 11 is now Irene Silverman.
23 Is that Miss or Mrs.?

24 PROSPECTIVE JUROR 11: Mrs.

25 THE COURT: Mrs. Silverman, before you come up, may

1 MP

2 I ask you to do one thing. Would you, and each juror, as you
3 come up, take your belongings. I think the marshal is going
4 over to get yours now, but I feel a certain sense of re-
5 sponsibility if you don't take your own.

6 Mrs. Silverman, you have heard my outline of the
7 possible conditions of service on this jury. Under the cir-
8 cumstances, would you be willing to serve?

9 PROSPECTIVE JUROR 11: No.

10 THE COURT: All right. Come on up, and we will
11 chat about it.

12 (Discussion at the side bar with Prospective Juror
13 Number 11.)

14 (In open court:)

15 THE COURT: Mrs. Silverman is excused. Call the
16 next juror, please.

17 THE CLERK: Juror Number 11 is now A. W. Flax.

18 THE COURT: Mr. Flax, you have heard my outline of
19 the possible conditions of serving on this jury?

20 PROSPECTIVE JUROR 11: Yes; I did.

21 THE COURT: Does this cause you an insuperable
22 burden, sir?

23 PROSPECTIVE JUROR 11: Your Honor, can I speak to
24 you?

25 THE COURT: Yes; surely.

MP

PROSPECTIVE JUROR 11: Can I come up?

THE COURT: Yes. Come up.

(Discussion at the side bar with Prospective Juror Number 11.)

(In open court:)

THE COURT: All right. Mr. Flax, would you take the second seat in the second row, please.

Call the next juror.

THE CLERK: Juror Number 13 is now Frank Davis.

THE COURT: Mr. Davis, you heard the outlines of what possibly will be service on this jury. Under the circumstances, would it cause an insuperable burden on you, sir?

PROSPECTIVE JUROR 13: I don't believe so.

THE COURT: Not really?

PROSPECTIVE JUROR 13: No, sir.

THE COURT: All right. Would you please take the last seat in the top row.

MR. CURRAN: Your Honor, may I approach the bench with Mr. Lopez?

THE COURT: Surely.

(At the side bar:)

MR. CURRAN: Your Honor, I made observations, and Juror Number 10 doesn't seem to be able to keep awake. I

1 MP

2 don't think -- I think she is now.

3 THE COURT: This must be very boring.

4 MR. CURRAN: I know, but he just sat down.

5 THE COURT: I don't think there will be a problem.

6 MR. LOPEZ: We will watch him closely during the
7 questioning.

8 THE COURT: All right. I will watch him, too.

9 (In open court:)

10 THE COURT: Ladies and gentlemen, I would appreci-
11 ate it if those prospective jurors sitting in the back of the
12 room would pay attention to me at this point, since many of
13 the questions which I will be asking of the jurors in the
14 box will also apply to you, and in order to make things move
15 as rapidly as possible, I would appreciate it if you would
16 raise your hand if you have a "yes" answer to something where
17 I say I expect a negative answer.

18 If that does apply to you, raise your hand, and
19 remember the question and the answer, and when it comes your
20 turn to be called, I want you to come up here and tell me
21 about it. All right?

22 Now, this is a criminal case, and criminal cases
23 come to court by reason of an indictment.

24 An indictment is nothing more than a piece of
25 paper. It is not evidence. It is the means whereby the

1 MP

2 case comes into court, and the defendants are advised of the
3 charges against them. It is, as I said, not evidence.

4 Every defendant comes into court presumed innocent,
5 and it is up to the Government to establish guilt beyond a
6 reasonable doubt. I will be charging you about this.

7 Will anyone have any difficulty in following my
8 instructions about such matters?

9 Now, I will be asking you certain questions. They
10 have a technical name, but the name doesn't really matter.
11 This part of the jury selection process is intended to do
12 two things. One is to let us get to know a little bit about
13 you and, two, to let you know a little bit about us.

14 Now, the defendants who will be going to trial are
15 the following, and my question to you is: do you know or
16 have you ever had any dealings with any of these people.
17 All right?

18 The defendants are Carmine Tramunti, Louis Inglese
19 Donato Christiano, Angelo Mamone, Joseph DiNapoli, Frank
20 Pugliese, Joseph Ceriale, John Gamba, Vincent D'Amico,
21 Benjamin Tolopka, Joseph Marchese, Frank Russo, Al Green,
22 William Alonzo, Hattie Ware, John Springer, Henry Salley and
23 Warren Robinson.

24 Does anyone know or have you had any contact with
25 any of these people?

MP

Does any juror or prospective juror know, directly or through members of your families, any of these persons who are members of their families?

First let me introduce Mr. Paul Curran. Mr. Curran would you stand up.

Mr. Curran is the United States Attorney for this District.

Next to him -- will you stand up -- is Mr. Walter M. Phillips, Jr. Mr. Phillips is an assistant United States Attorney.

Next is Mr. Thomas E. Engel. Mr. Engle is also an assistant United States attorney. And last but not lease, Mr. Thomas M. Fortuin. Mr. Fortuin is also an assistant United States Attorney.

Does anyone among the prospective jurors know any of these gentlemen?

All right. Does anyone among the prospective jurors know any member of the staff of the United States Attorney's office for the Southern District of New York?

Now let me introduce to you defense counsel. First, Mr. Herbert Siegal. Mr. Siegal is standing right over here.

Mr. Gilbert Epstein.

MR. SIEGAL: He is not here today.

1 MP

2 THE COURT: Mr. Epstein is not here today, but if
3 the name rings a bell with you, I want you to let me know.

4 Mrs. Nancy Rosner, who is also not here today,
5 but if that name means anything to you, will you let me know.

6 Mr. Frank A. Lopez.

7 Mr. Matthew Salkow. Mr. George David Rosenbaum.
8 Mr. Gary Sunden. Is Mr. Sunden here? No; he is not, but
9 I want you to let me know if that name rings a bell anywhere.

10 Mr. Ivan Fisher. Mr. Robert L. Ellis. Mr.
11 Theodore Rosenberg.

12 MR. ROSENBERG: I am here, sir.

13 THE COURT: Mr. Kenneth E. Warner. Mr. Murray
14 Richman. Mr. John P. Curley. Mr. Michael Dowd. Mr. Harold
15 Schwart. Mr. Robert P. Leighton. Mr. Edward Panzer.

16 Mr. Martin Jay Siegel. Mr. Murray M. Segal and
17 Mr. H. Leonard King. Would you stand up, Mr. king. I am
18 sorry.

19 Does anyone know any of these gentlemen or ever
20 had any dealings with them?

21 I guess you heard three Siegels there. They are
22 not related.

23 Now, in the indictment itself there are a number
24 of co-conspirators named. Let me explain that the indict-
25 ment charges a conspiracy to violate the narcotics laws and

1 MP

2 certain individual offenses in violation of the narcotics
3 laws.

4 I am going to read you the list of co-conspirator
5 Leo Cimino, Ernie Pontiac, Paul Gregorio, Paulie
6 the Arrow, Louis Lepore, Vincent Papa, Frank Stasi, Anthony
7 Pagano, Joe, Sharp, Frank Monaco, Frank Lalli, Alfred Lalli
8 Joe Flats, Sal Landi, John Dingle, Primrose Cadman, Louis
9 Oliveras, Jack Spada, Ralph Birdie, Martin de Saverio. A
10 person by the name of Jinx.

11 Marion Starace, John Dugan, Joseph Andretta,
12 Harry Pannirello. John Pannirello, James Provitero, Thomas
13 Lentini, Thomas Dawson, Carmine Pugliesi, George Toutoian,
14 Frank Pellegrino, Basic L. Hansen. Estelle Hansen, John
15 Barbetta and Ralph Tortino.

16 Does anyone know or has anyone ever had any
17 dealings with those people?

18 EOT 2pm

19

20

21

22

23

24

25

1 jhel

2 THE COURT: As I indicated to you at the beginning,
3 the function of a jury is to decide questions of fact. You
4 are the sole judges of the facts and nothing the Court or the
5 lawyers say or do may in any way encroach on your role as the
6 exclusive judges of the fact.

7 When it comes to the law, however, as distinguished
8 from the facts, you are to take your instructions solely from
9 me and you are bound by those instructions. You may not
10 substitute what you think should be the law or what you
11 think the law is for the instructions as I give them.

12 At the conclusion of the case it will be your
13 job to determine the guilt or innocence of each defendant,
14 and remember, you must weigh each defendant and the evidence
15 concerning him or her. Based on all the evidence as it
16 applies to each defendant, the individual, and following the
17 principles of law as I give them to you, if you have a
18 reasonable doubt as to the defendant's guilt you should not
19 hesitate to return a verdict of acquittal. Is there anyone
20 on the jury panel who would be unable to do that?

21 Is there any prospective juror here presently
22 employed by a law enforcement agency?

23 Let me know one other thing generally. There may
24 have been some publicity about some defendants here and
25 possibly to a lesser extent some publicity about this case.

2 1 jehl

2 I will tell you right now that what appears in the press or
3 in the newsmedia is not evidence, nev er can be evidence in
4 a case. Cases are tried in courtrooms. They are not tried
5 in the press or on radio or on television. They are tired
6 under prescribed rules of evidence. You must not be influen-
7 ced by anything you have seen or heard outside this courtroom.
8 I don't care even if it was standing out in the hallway before
9 you came in and somebody talked to you about this case. The
10 only evidence that you can consider is evidence which comes
11 in in this courtroom.

12 Is there anybody here who feels that they would
13 not be able to follow that instruction?

14 Now, I am going to ask certain individual questions
15 but I again ask all of you seated in the back to pay attention
16 so that when and if it becomes your turn we can go through
17 the questions with you as rapidly as possible.

18 BY: THE COURT:

19 Q Miss Davis, I note that you live in Manhattan;
20 is that correct, Ma'am?

21 A (PJ 6) Yes.

22 Q Have you lived there for the last five years?

23 A Yes.

24 Q Are you presently employed?

25 A No.

3 1 jhel

2 Q During the last five years have you been employed?

3 A No.

4 Q Ma'am, have you ever been the victim of a crime?

5 A No.

6 Q Have you ever served as a member of a jury in
7 a civil or criminal case or on a grand jury before?

8 A No.

9 Q Do you have any problem hearing?

10 A No.

11 THE COURT: In fact, does anybody have any hearing
12 problem?

13 All right. When it comes time mention it to me.

14 Q Do you have any personal prior knowledge of this
15 case?

16 A (PJ 6) No.

17 Q What newspaper do you read?

18 A I don't read the newspaper regularly.

19 Q Do you watch TV or a regular TV news program or
20 listen to, I guess WINS or WCBS, or any regular news program?

21 A I listen to WMCA radio and Channel 7 News regularly.

22 Q Have you heard anything or seen anything about this
23 case or the defendants in this case?

24 A No.

25 Q Do you have anyone who is a relative of your or a

4

1 hel

2 particularly close friend who is a member of a law enforcement
3 agency?

4 A No.

5 THE COURT: Mr. Kirsch, you live in Manhattan also
6 don't you, sir?

7 PROSPECTIVE JUROR NUMBER 10: Yes.

8 BY THE COURT:

9 Q Have you lived there for the last five years?

10 A (PJ 10) Yes, I have.

11 Q Are you presently employed, sir?

12 A I am in business for myself.

13 Q What kind of business?

14 A I run a sporting camp.

15 Q You run a camp?

16 A A sporting camp for hunters and fishermen.

17 Q I was about to ask whether it was for children
18 the age of mine or whether it was for grownups.

19 Have you done that for the last five years, sir?

20 A No, just the past year.

21 Q What did you do before that?

22 A I was with the Postal Service.

23 Q Are you married, sir?

24 A Single.

25 Q Have you ever been the victim of a crime?

5 1 jel

2 A Mugging.

3 Q Did you appear as a complaining witness or any-
4 thing after that?

5 A No, no.

6 Q Have you ever served on a jury before, civil,
7 criminal, or even a grand jury?

8 A Two criminal.

9 Q Two criminal cases?

10 A Yes.

11 Q When was that, sir?

12 A One ending yesterday here and one in March of '72
13 at 110th Street.

14 Q The one that ended yesterday here, what kind of
15 case was that, sir?

16 A A stock fraud.

17 Q What kind of an ending did it have?

18 A We reached a verdict.

19 Q Was the verdict guilty or not guilty?

20 A Guilty.

21 Q How about --

22 Q There were three people involved. One was found
23 guilty -- two were found guilty on all counts, one was found
24 not guilty on all counts.

25 Q How about the case up at 100th Street?

6

1

jel

2

A That was a criminal case involving a burglary. We found him guilty there also.

3

4

Q What newspaper do you generally read, sir?

5

A Daily News during the week and The Times on Sunday.

6

Q What news programs do you generally listen to or watch?

7

8

A None in particular. Whatever we happen to be watching. Then you have the 11:00 news.

9

10

Q Have you heard anything about this case or the defendants in this case?

11

12

A Well, I think it was Monday or Tuesday in the Daily News --

13

14

Q Wait a second. Did you hear it, yes or no? Then we will go from there.

15

16

A Yes, I did.

17

THE COURT: All right; come up.

18

19

(Discussion at the side bar with Prospective Juror Number 10.)

20

THE COURT: All right. Take your seat, sir.

21

22

MR. CURRAN: I would request your Honor to consider calling up Miss Davis, Juror Number 6, and asking her what she has ever done for a living. She said he had been unemployed for the last 5 years.

23

24

25

THE COURT: She might be terribly rich.

7 1 jhel

2 MR. CURRAN: The defense might be interested in this.

3 MR. LOPEZ: Yes, we will join in that request,
4 your Honor.

5 We might, if I might just digress for a moment, in
6 connection with Mr. Fisher, we would like to exercise a
7 challenge for cause. We feel that he hasn't only been a
8 casual reader of a newspaper, but he has discussed this case,
9 your Honor, with other parties unknown. We feel that takes
10 him out of the simple category of merely reading. ON that
11 basis and on the limited inquiry, we feel a challenge for
12 cause should be exercised.

13 Furthermore, I have noticed, as did Mr. Curley
14 previously, he has been dozing. I don't know. Maybe he is
15 tired today or something like that. I don't know if this
16 type of conduct would continue.

17 He is not dozing anymore, Mr. Curley?

18 MR. CURLEY: Your Honor, insofar as the challenge
19 for cause goes on the publicity ground, I think it should be
20 denied.

21 THE COURT: I have already decided that.

22 MR. CURLEY: with respect to the dozing, I was the
23 one who brought it to your attention and I would ask your
24 Honor to observe him for a period of time and make a decision.

25 THE COURT: I will watch him. You want to find out

1 jhel

2 Miss Davis does?

3 MR. CURLEY: I would like to find out something
4 about her background.

5 MR. LOPEZ: I agree.

6 THE COURT: Sure.

7 (In open Court.)

8 THE COURT: Miss Davis, would you come up, please

9 (Discussion at the side bar with Prospective
10 Juror number 6.)

11 MR. CURLEY: Thank you, your Honor.

12 MR. LOPEZ: Thank you very much.

13 (In open Court.)

14 THE COURT: Mr. Flax, I see that you live in the
15 Bronx.

16 PROSPECTIVE JUROR NUMBER 11: Yes.

17 BY THE COURT: Have you lived there for the last five years
18 sir?

19 A (PJ, 11), 20 years I live in the Bronx.

20 Q Are you presently employed, sir?

21 A Yes.

22 Q What do you do, sir?

23 A I am a receiving clerk in the dry goods line and
24 firm's name is H. Eckstein and Sons.

25 Q You got a plug in. Good for you.

1 jhel

2 I am sure you must be working there for more than
3 five years.

4 A 41 years, your HOnor.

5 Q Are you married, sir?

6 A Yes, sir.

7 Q Would you say definitely?

8 A Sure. If you want I could even bring the marriage
9 license.

10 Q Tell me, Mr. Flax, is your wife employed?

11 A No, no, your HOnor. Housewife

12 Q Mr. Flax, have you ever been the victim of a crime?

13 A No.

14 Q Have you ever sat on a jury before?

15 A Yes, your HOnor. Tuesday I was on a criminal case
16 in this Court.

17 Q What kind of case was it, sir?

18 A It was a cocaine case, narcotics.

19 Q Did the case go through to a verdict?

20 A Guilty.

21 Q What newspaper do you read, sir?

22 A The News.

23 Q What TV programs, news programs, do you watch?

24 A Whatever my wife likes I watch.

25 Q You are an honest man. In connection with your

10 1 jhel

2 newspaper reading and watching TV, have you seen or heard
3 anything about this case?

4 A Yes, your HOnor. It was in --

5 Q All right; the answer was yes. Now I want you
6 to come up.

7 (Discussion at the side bar with Prospective
8 Juror Number 11.)

9 THE COURT: All right. You want me to inquire
10 further?

11 MR. LOPEZ: If that is all he remembers, I don't
12 think there is any necessity for inquiring further.

13 THE COURT: All right. Thank you.

14 (In open Court.)

15 BY THE COURT:

16 Q Mr. Flax, do you have any relatives or close
17 friends that are members of a law enforcement agency?

18 A (PJ 11) No, your Honor.

19 THE COURT: Mr. Davis, I believe you live -- yes,
20 you do -- in Manhattan; right?

21 PROSPECTIVE JUROR NUMBER 13: Yes.

22 Q Have you lived there for the last five years,
23 sir?

24 A (PJ 13) Yes.

25 Q Are you presently employed?

11

1

jhel

2

A Yes, sir.

3

Q What kind of work do you do?

4

A Transit Authority.

5

Q Transit Authority?

6

A Yes, maintainer.

7

Q Are you the guy who tries to get the grafitti off
the subway cars?

9

A No, sir.

10

Q I would like to catch the guy who puts in on.

11

Are you married, sir?

12

A Yes.

13

Q Is your wife employed?

14

A No.

15

Q Have you ever been the victim of a crime?

16

A No.

17

Q Have you ever served on a jury before?

18

A Yes. I was a co-juror here, served on the same
case that this guy finished yesterday. It was a fraud case.

20

Q Did you ever serve before that, sir?

21

A No.

22

Q What newspaper do you read generally, sir?

23

A Well, mostly the News. I look at papers, but look
for sales, read the sports.

25

Q How about news on TV or radio?

12

1 jhel

2 A Well, I watch Channel 2, Channel 7, Channel 11,
3 but not all the time.

4 Q Have you heard anything or read anything about this
5 case or the people involved in this case?

6 A No, sir.

7 Q Do you have any relative or close friend who is a
8 member of a law enforcement agency?

9 A No.

10 MR. LOPEZ: Your Honor, may we approach the bench?

11 THE COURT: Sure. Come up.

12 (At the bench.)

13 MR. LOPEZ: Judge Duffy, would it be possible for
14 your Honor to inquire of this jury panel whether if by reason
15 of the fact this is a drug case they would have any special
16 prejudice?

17 THE COURT: Sure.

18 MR. CURRAN: For or against the defense or for or
19 against the government?

20 THE COURT: Sure.

21 MR. CURRAN: Your Honor, there is one other
22 question.

23 THE COURT: You want Watergate?

24 MR. CURRAN: Yes, your Honor. You beat me to it.

25 (In open Court.)

14 1 jhel

2 THE COURT: Let me direct a general question to
3 the entire panel. We know that there has been a great deal
4 recently in the press and on television and radion concerning
5 allegations of misconduct in the government and allegations
6 of bad conduct in high office. Has any juror through any-
7 thing he has seen or heard developed a bias against the United
8 States government, the Department of Justice or the United
9 States Attorney's office because of this?

10 Now, as I indicated, this is a narcotics case. Is
11 there any juror here who would have any bias one way or the
12 other, for or against the defendant, for or against the
13 government, because it is a narcotics case?

14 All right, sir. One gentleman in the back indicated
15 he might. Hold that and if your name is called I want you
16 to come up and talk to me about it.

17 MR. CURRAN: The government waives one challenge,
18 your HOnor.

19 THE COURT: All right.

20 THE CLERK: Juror number 6, Bedelia Davis, is
21 excused.

22 THE COURT: Miss Davis, you are excused with the
23 thanks of the Court. I appreciate the concern you have the
24 the proper recognition of your duty to undertake this kind
25 of assignment. Thank you very much.

15

1 hel

2

PROSPECTIVE JUROR NUMBER 6: May I ask why?

3

THE COURT: No. I don't even know why. That is the way it's done.

5

THE CLERK: Juror Number 6 is now Charles Speight.

6

THE COURT: Mr. Speight, you have heard the kind of ground rules or conditions under which you would serve on this jury. Under those conditions, sir, would you be willing to serve as a juror?

10

PROSPECTIVE JUROR NUMBER 6: Yes.

11

THE COURT: Take the last seat in the first row.

12

Mr. Speight, you live in Westchester County?

13

PROSPECTIVE JUROR NUMBER 6: Yes.

14

BY THE COURT:

15

Q In Yonkers?

16

A (PJ 6) Yes.

17

Q Have you lived up there for the last 5 years, let's say?

19

A Oh, yes.

20

Q Are you presently employed, sir?

21

A With the New York Telephone Company.

22

Q What do you do with the Phone Company, sir?

23

A I am a lineman, climbing poles, replacing cable.

24

Q You must have had lots of work to do during the ice storm that we had a couple of weeks back.

25

16

1 jhel

2 A A little bit, yes.

3 Q Have you worked at that position for the last 5
4 years or at least with the Phone Company?

5 A Oh, yes.

6 Q Are you married, sir?

7 A Yes.

8 Q Is your wife employed?

9 A No.

10 Q Have you ever been a victim of a crime?

11 A No.

12 Q Have you ever served on a jury in a civil or
13 criminal case or even on a grand jury before this?

14 A No.

15 Q What newspaper do you read?

16 A Well, the Daily News.

17 Q And the Herald Statesman?

18 A Yes, at time.

19 Q What news programs do you listen to or watch?

20 A Whichever one is on.

21 Q Have you read or heard anything about this case or
22 the defendants in this case?

23 A No, I haven't.

24 Q Do you have any relatives or close friends who are
25 members of law enforcement agencies?

17

1 jhel

2 A No.

3 Q Do you know of any reason -- this is directed toward
4 the entire jury -- that you would be unable to render a fair
5 and impartial verdict in this case?

6 A No.

7 MR. LOPEZ: Your Honor, may we use the conference
8 room?

9 THE COURT: Yes. Ladies and gentlemen, maybe you
10 don't understand, but there are a number of lawyers for the
11 defense. There is a room back here and they are going to re-
12 tire there now.

13 I should mention something. The lady was excused
14 before. The law provides that there be challenges to a
15 jury without reason. We never get to know the reason why.
16 It doesn't much matter.

17 I think this might be, in all honesty, a good time
18 to take a cigarette break. If you are not addicted to
19 cigarettes you can have other things.

20 Would the marshals in the back of the room make
21 sure that the jurors in the back of the room get out without
22 interference.

23 Please, before you go, don't talk about this case
24 to anybody. Don't even talk about it among yourselves. Don't
25 form any conclusions or biases or anything else.

18 1 jhel

2 All right. YOU can go outside. Be back here at
3 20 minutes before the house.

4 You folks in the jury box, there is a marshal right
5 here and he will escort you into the jury room.

6 (Pause.)

7 THE COURT: Mr. Charles Stapleton has just approached
8 the bench and advised me that he was arrested for using
9 drugs on two occasions.

10 M r. Stapleton, you are a prospective juror, right?

11 MR. STAPLETON: Yes.

12 THE COURT: All right. You feel that you should be
13 excused from this case?

14 MR. STAPLETON: No. I mean, I don't mind, but I
15 wouldn't know if it would have anything to do with it.

16 THE COURT: I'm afraid it would.

17 MR. STAPLETON: Four months ago I was in a jury, you
18 know, I just been called on a case.

19 THE COURT: We will excuse you from this case.

20 MR. STAPLETON: What I should do, back to work
21 or what?

22 THE COURT: Yes, go back to work. We will arrange
23 to have the jury clerk send a check. Thank you very much
24 for coming in.

25 MR. STAPLETON: Okay.

(recess.)

T4pm

MP

(At the side bar:)

MR. ROSENBERG: I spoke to Mr. Lopez. He indicated to me that he wanted to discuss this point with respect to the jurors who are already in the box. We had the exercises of the challenges, one challenge with respect to the back row. We had the feeling that once this panel was seated, that we would exercise three, that the Government would exercise one, that the last four would be exercised on the back. Otherwise, we have wasted challenges.

THE COURT: It was quite clear what the number of challenges was, that we would have six alternate jurors.

MR. ROSENBERG: But why exercise challenges with respect to the alternates when you haven't used up challenges with respect to the jurors in the box? It was my understanding that after the ones that we approved of we approved of by not exercising the challenges, so when you select the new jurors, we have wasted three challenges by going into the alternates.

THE COURT: Well, it's not wasted.

MR. ROSENBERG: Well, can we have the additional three challenges?

THE COURT: No. I made the ruling yesterday. It was clear yesterday. I see no reason to change it whatsoever.

MR. ROSENBERG: The ruling as to the alternates --

1 MF

2 Maybe I misunderstood you. We had the challenges against
3 those in the box. It was our impression that we knew what
4 was coming.

5 THE COURT: If that had been the procedure, I
6 would have made it clear.

7 MR. ROSENBERG: Well, will you give us the
8 three additional challenges?

9 MR. SUNDEN: I would like to make one request, and
10 I would ask that you instruct the jury at some appropriate
11 point before it is finally selected that the jury selection
12 process is one where your Honor has directed that it is the
13 custom that the defense challenges be exercised jointly, and
14 there are eighteen separate defendants going to trial, and
15 the jury is not to infer any community of interest because
16 they see the defense lawyers retiring.

17 I don't want the posture of my client, who is
18 just charged with a conspiracy, if the jury sees the defense
19 lawyers retire at one time, somehow in the jurors' minds
20 there might be the image -- I know that I for one moved to
21 exercise challenges separately, which your Honor denied, and
22 I just feel that a wrong image is being conveyed to the
23 jury, and I respectfully request that your Honor clarify to
24 the jury that there is a separate interest here of each one,
25 and it is only because of your Honor's direction that these

1 MP .

2 challenges are being exercised jointly.

3 THE COURT: Well, I believe that I have already
4 instructed them that these defendants are charged separately
5 If all the lawyers get together, and somebody wrote me a
6 letter and said that the fact that Mr. Lopez is up there --

7 MR. SUNDEN: No, but I have a similar point. I am
8 afraid the jurors might get the impression that we are some-
9 how together, and we aren't.

10 At this point I think the jurors, having seen us
11 all retiring together --

12 THE COURT: Well, I might want to --

13 MR. SUNDEN: If your Honor declines to do it,
14 I respectfully except.

15 THE COURT: No. I didn't say that. I won't do
16 it now, I said.

17 (In open court:)

18 THE CLERK: Juror Number 6, Charles E. Speight,
19 is excused.

20 Juror Number 10, Robert Kirsch, is excused.

21 Juror Number 11, Abe W. Flax, is excused.

22 THE COURT: By the way, gentlemen, you are excuse
23 with the thanks of the Court. The very fact that you were
24 willing to servce is a real recognition of your devotion to
25 duty as citizens, and I thank you very much for that.

1 MP

2 THE CLERK: Juror Number 6 is now John J. Estok.

3 THE COURT: Mr. Estok -- is that the correct pro-
4 nunciation?

5 PROSPECTIVE JUROR 6: Estok.

6 THE COURT: Mr. Estok, you have heard the conditions
7 under which service on this jury would go. Would that cause
8 an insuperable burden on you, sir?

9 PROSPECTIVE JUROR 6: No.

10 THE COURT: All right.

11 THE CLERK: Juror Number 10 is not Concetta
12 DiFilipo. Is that Miss or Mrs.?

13 PROSPECTIVE JUROR 10: Mrs. DiFilipo.

14 THE COURT: Mrs. DiFilipo, you have heard the
15 conditions of service on this jury?

16 PROSPECTIVE JUROR 10: Yes.

17 THE COURT: Would it cause you an insuperable
18 burden to serve, ma'am?

19 PROSPECTIVE JUROR 10: Yes.

20 THE COURT: All right. Fine. Come up.

21 (Discussion at the side bar with Prospective Juror
22 Number 10.)

23 (In open court:)

24 THE COURT: Mrs. DiFilipo is excused. Call the
25 next juror, please.

1 MP

2 THE CLERK: Juror Number 10 is now Edward A.

3 Pasierb.

4 THE COURT: Mr. Pasierb, you have heard the
5 conditions of service on this jury. Would it cause you an
6 insuperable burden to serve, sir?

7 PROSPECTIVE JUROR 10: No, sir.

8 THE COURT: All right. Take the innermost seat in
9 the second row, please.

10 THE CLERK: Juror Number 11 is now Edith Sadowsky.

11 THE COURT: Is that Miss or Mrs. Sadowsky?

12 PROSPECTIVE JUROR 11: Mrs.

13 THE COURT: Mrs. Sadowsky, I think you indicated
14 that you had a "yes" answer to something and I said I would
15 take it up with you afterwards. I have forgotten what it
16 was. Let me ask the first question first.

17 Would it cause you an insuperable burden to serve
18 under the conditions that I have outlined?

19 PROSPECTIVE JUROR 11: I would find it very diffi
20 to.

21 THE COURT: All right. Come on up.

22 (Discussion at the side bar with Prospective Juror
23 Number 11.)

24 (In open court:)

25 THE COURT: Mrs. Sadowsky is excused. Call the

1 MP

2 next juror, please.

3 THE CLERK: Juror Number 11 is now Paul Balkin.

4 THE COURT: Mr. Balkin, you have heard the possible
5 conditions of service on this jury. Would that cause you an
6 insuperable burden, sir?

7 PROSPECTIVE JUROR 11: Yes, your Honor.

8 THE COURT: All right. Come on up.

9 (Discussion at the side bar with Prospective Juror
10 Number 11.)

11 (In open court:)

12 THE COURT: Mr. Balkin is excused. Call the next
13 juror, please.

14 THE CLERK: Juror Number 11 is now Geronimo
15 Lluberas.

16 THE COURT: Mr. Lluberas, you have heard the pos-
17 sible conditions under which service on this jury would
18 take place. Would that cause you an insuperable burden, sir?

19 PROSPECTIVE JUROR 11: No, sir.

20 THE COURT: All right. Do you want to take your
21 place on the second seat from the end in the second row.
22 Do you have a coat?

23 PROSPECTIVE JUROR 11: Yes.

24 THE COURT: Would you get the coat first.

25 MR. LOPEZ: Your Honor, may we approach the bench?

1 MP

2 THE COURT: Yes.

3 (At the side bar:)

4 MR. LOPEZ: Your Honor, during the last intermis-
5 sion, this prospective juror called out my name, "Mr. Lopez",
6 and I went over to the podium, and he said, "What's going on?
7 Is there some difficulty selecting the jury?" I thought he
8 knew me. I didn't recognize him, and I was careful, and I
9 said, "No; it's just in the process of selection," and he
10 gave me his last name, shook hands with me and then told me
11 he was a prospective juror.

12 THE COURT: Under the circumstances, I don't know
13 what there is to do about it.

14 MR. LOPEZ: It's embarrassing.

15 THE COURT: No. What's embarrassing about it?

16 MR. LOPEZ: All right.

17 THE COURT: Mr. Lluberas will be excused.

18 (In open court:)

19 THE COURT: Mr. Lluberas, you are excused. If you
20 want to find out why, come on up, and I will explain.

21 (Discussion at the side bar with Prospective Juror
22 Number 11.)

23 (In open court:)

24 THE COURT: Call the next juror, please.

25 THE CLERK: Juror Number 11 is now Vincent

1 MP

2 McGuire.

3 THE COURT: Mr. McGuire, you have heard the
4 conditions of service on this jury. Would it cause you an
5 insuperable burden, sir?

6 PROSPECTIVE JUROR 11: I can't hear you.

7 THE COURT: You can't hear me at all? You have
8 heard the conditions of service on this jury. Would it
9 cause you a real burden, sir?

10 MR. SIEGEL: He can't hear.

11 THE COURT: All right, Mr. McGuire. You are excused.
12 Call the next juror, please.

13 THE CLERK: Juror Number 11 is now James M.
14 Antonecchia.

15 THE COURT: Mr. Antonecchia, you have heard the
16 conditions of service. Would you be willing to serve?

17 PROSPECTIVE JUROR 11: Yes.

18 THE COURT: All right. Fine. Take your place in
19 the box, the one vacant seat.

20 BY THE COURT:

21 Q Mr. Estok, I see you live up in Mount Vernon.

22 A (P. J. 6) Yes, sir.

23 Q And have you lived there for the last five years,
24 sir?

25 A Thirteen.

1 MP

2 Q Could you tell us, sir: you are presently employed?

3 A Yes, sir.

4 Q What is your occupation?

5 A Surface line dispatcher with the Transit.

6 Q Oh, yes. Is that down here in the City or up in
7 Westchester?

8 A Yes. Here in the City.

9 Q And have you been so employed for the last five
10 years?

11 A Thirteen years.

12 Q All right. Are you married, sir?

13 A Yes.

14 Q Is your wife employed?

15 A Yes, sir.

16 Q What does she do?

17 A Secretary.

18 Q Can you tell us where she is a secretary, what
19 kind of --

20 A Electronics corporation.

21 Q Have you ever been the victim of a crime, sir?

22 A No, sir.

23 Q Have you ever served on a jury before, any kind
24 of jury?

25 A Yes, sir. About three years ago, up in White

1 MP

2 Plains Supreme Court.

3 Q What kind of a case was it?

4 A A civil -- civil action.

5 Q What kind of a civil action? Was it an automobile
6 knock-down case?

7 A No, sir.

8 Q A contract case?

9 A It was a corporation. It was a group of individu-
10 als against a corporation -- employees.

11 Q And do you recall how the case came out?

12 A There was an award for the employees.

13 Q All right. Could you tell us what newspaper you
14 read?

15 A The Daily Argus and sometimes the News.

16 THE COURT: Gentlemen, in case you don't know
17 it, the Daily Argus is a Gannett newspaper published up
18 in Westchester, in the evening.

19 Q All right. What if any TV news programs do you
20 watch, sir, or do you switch around the dials?

21 A It's kind of hard to do with five kids. I kind
22 of like to watch the news, but sometimes we have a disagree-
23 ment over whether I am going to watch the news or they are
24 going to watch --

25 Q How is Captain Kangaroo? All right. Have you

1 MP

2 read anything or heard anything or seen anything about this
3 case and these defendants?

4 A I have been thinking about that since I came in
5 here, and I haven't. I can't say I have.

6 Q Now, are you related to or a close friend of any
7 member of a law enforcement agency?

8 A No. Just a friend of the family. I have my
9 father's cousin -- my father's cousin's daughter is married
10 to a policeman.

11 Q All right. Look: we want to be as complete as
12 possible and as honest as possible.

13 A In Nassau County, but I don't see him maybe about
14 once or twice a year.

15 Q Just at weddings; is that what it is?

16 A Yes, sir.

17 Q Before I go on, Mr. Estok, do you know of any
18 reason why you would be unable to render a fair and impartial
19 verdict in this case?

20 A I don't think so. No, sir.

21 THE COURT: All right. Fine.

22 Q Mr. Pasierb, you live in Westchester also?

23 A (P. J. 10) Yes.

24 Q And have you lived there for the last five years?

25 A Yes, sir.

1 MP

2 Q Are you presently employed?

3 A Yes, sir.

4 Q What do you do?

5 A I am a quality control man on Otis Elevator, for
6 the Otis Elevator Company.

7 They did not make the elevators in this building.

8 Q Have you been so employed for the last five years?

9 A Yes, sir.

10 Q Are you married?

11 A Separated.

12 Q Have you ever been the victim of a crime?

13 A No, sir.

14 Q Have you ever served on a jury before?

15 A No, sir.

16 Q What newspaper do you read, sir?

17 A Daily News and the Herald Statesman.

18 THE COURT: By the way, the Herald-Statesman is
19 another one of the Gannett Chain newspapers up in Westchester

20 Q All right. Do you watch a regular TV news program
21 or listen to a regular news broadcast?

22 A CBS and Channel 7.

23 Q Have you heard anything or read anything or seen
24 anything about this case or any of the defendants in the case

25 A No, sir.

1
2 Q Do you have any relatives or close friend who is
3 employes by a law enforcement agency?

4 A No, sir.

5 Q Do you know of any reason why you would be unable
6 to render a fair and impartial verdict in this case?

7 A No, sir.

8 THE COURT: All right. Thank you.

9 Q Mr. Antonecchia, you come from Rockland County?

10 A (P.J. 11) Yes, sir. Nyack.

11 Q Have you been up there for the last five years?

12 A Yes, sir.

13 Q Are you presently employed?

14 A Yes; I am.

15 Q What kind of work do you do?

16 A I am an engineer with the New York Telephone
17 Company.

18 Q And do you work here in the city, or do you work up
19 in Nyack?

20 A Well, primarily in the city. State-wide.

21 Q Are you married, sir?

22 A No. I'm a bachelor.

23 Q Have you ever been the victim of a crime?

24 A No; I haven't.

25 Q Have you ever served on a jury before?

1 MP

2 A No; I haven't.

3 Q What newspaper do you read, sir?

4 A Primarily the Wall Street Journal and, to a lesser
5 extent, the Times.

6 Q What TV news program do you watch, if any?

7 A None on a regular basis. I switch around.

8 Q Have you seen anything or heard anything any place
9 or read anything about this case or any of the defendants
10 in this case?

11 A Yes. This morning, while I was waiting --

12 THE COURT: All right. Why don't you come up, and
13 we will chat about it.

14 (Discussion at the side bar with Prospective Juror
15 Number 11.)

16 THE COURT: All right. Take your place.

17 MR. LOPEZ: May I ask that you ask those two
18 questions, the ones we are interested in.

19 MR. CURRAN: The so-called Watergate question.

20 THE COURT: I put the general question.

21 MR. CURRAN: Yes, but they were sitting outside.

22 (In open court:)

23 BY THE COURT:

24 Q Now, Mr. Antonecchia, do you have any relative
25 or close friend who is employed by any law enforcement

1 MP

2 agency?

3 A (P. J. 11) No, sir.

4 THE COURT: Once again, let me ask all of the
5 jurors and prospective jurors whether because this case in-
6 volves narcotics, do you feel any bias either for or against
7 the defendants or for or against the Government or in any way
8 be impaired in rendering a fair and impartial verdict?

9 All right. If anyone is going to answer "Yes"
10 to that who is sitting in the jury box, raise your hand, and
11 if anyone down in the back has a "Yes" answer to that, let
12 me know, if your name is called.

13 I think I mentioned before the press and television
14 coverage in Washington by certain Government officials or
15 ex-Government officials. Would any prospective juror have
16 any difficulty in rendering a fair and impartial verdict?
17 Would you have a bias, for example, against the United
18 States Government, the Department of Justice or the U. S.
19 Attorney's office because of those allegations in the press?

20 MR. CURRAN: The jury is satisfactory to the
21 Government, your Honor.

22 MR. LOPEZ: The jury is satisfactory to the
23 defense, your Honor.

24 THE COURT: All right, Mr. Alerk, swear the jury.

25 (The jury and six alternates were duly sworn.)

4
contd.

1 MP

2 THE COURT: Mr. Marshal, would you escort the jury
3 from the courtroom into the jury room in the back.

4 Those members of the jury panel who were not
5 selected for this jury are to return to the central jury
6 room. One of the marshals, hopefully -- would you bring
7 over the cards? I recognize that some of you were called
8 in on extremely short notice. It is unfortunate that it had
9 to happen that way, and I am sorry it had to happen that way,
10 and I do want to express my personal appreciation and the
11 appreciation of not only just the lawyers and the litigants
12 here but, if I can, the appreciation on behalf of the whole
13 country that we have such fine people who will come in on
14 short notice and recognize their duty as citizens as you
15 folks have done.

16 Thank you very much. All right, Marshal.

17 (The jury panel left the courtroom.)

18 (At the side bar:)

19 MR. PHILLIPS: I just happened to notice that
20 Juror Number 6 has got Readers Digest in his possession.

21 THE COURT: That is just a housekeeping detail.
22 I will explain to you exactly what it is. Someone spotted
23 that sticking out of the back pocket or the side pocket of
24 the coat of one of the jurors. We don't know what's in it,
25 and we are going to have to take it away.

1 MP

2 All right. Let's get the Readers Digest out.

3 MR. ELLIS: Your Honor, I believe that there is
4 an article in the current Readers Digest --

5 THE COURT: The Readers Digest or any other
6 reading material, Marshal.

L/24

5PM

391

1 jhel

2 THE COURT: While we are waiting for that we might
3 as well continue on. I expect the government will open at
4 10:00 tomorrow. I will have a few brief prefatory remarks
5 to make.

6 I have had requests for two things from the defense.
7 One, that I instruct the jury that the fact that you all
8 went out together to discuss exercising the challenge doesn't
9 mean that you are acting together or anything like that; it's
10 just as a matter of convenience.

11 Somebody else specifically requested -- I forget
12 who it was -- that Mr. Lopez' coming up here did not indicate
13 Mr. Lopez was acting on behalf of all of you, whatever. I am
14 going to have some difficulty in phrasing it, as to how Mr.
15 Lopez was selected by me as lead counsel. I will take care
16 of that. He doesn't want me touse the word cooperating. We
17 will work that out.

18 As I said, I will have very brief comments to make.
19 After that I expect the government to open. Does every
20 defendant now expect to open? There are times when you don't.

21 Let me just go around. Anybody who doesn't pick
22 up his hand.

23 MR. H. SIEGAL: That depends on the opening by the
24 government, Judge. I can't make a decision until I hear it.

25 THE COURT: I understand that, Mr. Siegal. I am

1 jhe.

2 talking about right now. There are some people who are
3 committed not to make an opening right now.

4 MR. H. SIEGAL: I am committed not to make openings
5 in every case.

6 THE COURT: All right. There are some people who
7 realistically right now, no matter what happens, are not going
8 to make an opening.

9 One, two three.

10 MR. LOPEZ: Your Honor, I think much depends on
11 your Honor's rulings on this morning's applications whether
12 some of defense counsel will open or not.

13 THE COURT: I understand that. Listen, I am not
14 forcing anybody into anything right now. I am just trying
15 to get a time frame for this.

16 I want to tell you one more thing. How long do you
17 want to open, Mr. Curran or Mr. Phillips? Who is going to
18 open?

19 MR. CURRAN: Mr. Phillips is going to open, and it
20 is estimated about 45 minutes, perhaps less.

21 THE COURT: All right. I would like to make it less.

22 I am not putting any bounds whatsoever on any
23 defense counsel for his opening. You understand? You can say
24 what you want to. I heard today during the argument of the
25 motions everybody said, "well, my client is a fringe defendant."

1 jhel

2 If that be, there are some great openings, like "listen, he
3 is not even mentioned," something like that. However, if
4 you can make it short I would appreciate it. I would like to
5 possible start taking some testimony tomorrow. If we can't,
6 we can't.

7 MR. Richman, I think I mentioned to you yesterday
8 we are not going to work this Saturday. I am sure that that
9 will make those people who take -- Mr. Sunden, you take care
10 of your children on Saturdays, isn't that right? I am sure
11 they will be happy to see Daddy.

12 We have had I think a very relaxed and happy atmos-
13 phere up through this point. I feel that at times I have
14 made some funnies and I feel that at times I might have been
15 the point of some. I don't personally object to it. How-
16 ever, it is not going to ha-pen from here on out, one way or
17 the other. This case is going to be tried straight. I believe
18 you know my admonition. If you have an objection stand up and
19 say you have an objection, sit down. If you feel that you
20 want to make a record of exactly what your objection is I
21 want it written out.

22 By the way, there are no marks for penmanship. Just
23 get your thought in there. I assume everybody is ready to roll
24 tomorrow.

25 Mr. Curran?

1 jhe

2 MR. CURRAN: Your Honor, the government will have
3 sp,e 3500 material.

4 THE COURT: Tonight?

5 MR. CURRAN: Yes, your Honor. I have it at my
6 office, if defense counsel would like to come up. If you
7 prefer to wait around here, we will get it down in a few
8 minutes, whichever you prefer.

9 THE COURT: They are not going to wait here. I will
10 tell you why. I think I mentioned at some point I am respon-
11 sible for some 601 other cases. Most of those only have a
12 few attorneys in them. However, I do have a hearing which
13 was scheduled for 4:30 this afternoon. I don't mind if you
14 stay in the courtroom, but let the other guys come forward.

15 MR. CURRAN: Then, your Honor, may I make it
16 available in my office right after the session?

17 THE COURT: Sure.

18 MR. CURRAN: Room 401, your Honor.

19 THE COURT: All right.

20 MR. WARNER: Your Honor, I have been hearing some
21 conflicting reports, all from Mr. Phillips as the source. I
22 am sure there has been a misunderstanding.

23 Your Honor, I wondered if your Honor would direct
24 the government to give the defense some notion at least of
25 the order of preliminary witnesses so that the new tapes,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

jhe 395
which are approximately 13 in number, could be digested in
time to be ready for either Barnaba or Stasi.

THE COURT: I think if you pick up the 3500 material
that will tell you right there. That is my guess.

Would it, Mr. Phillips?

MR. PHILLIPS: Not as between Barnada and Stasi,
your HOnor. The 3500 Mr. Curran is going to turn over this
evening does not relate to either Barnaba or Stasi.

I think I stated on the record yesterday a general
outline of the government's order of witnesses with respect
to Barnaba and Stasi and I think that should suffice for
defense counsel.

THE COURT: Why don't you remind them?

MR. PHILLIPS: I think, your Honor, yesterday I said
that as between Barnaba and Stasi, Stasi would appear earlier
than Barnaba would in the order of witnesses.

THE COURT: That is my recollection.

Gentlemen, I don't see any necessity for everybody
sitting here listening to me basically reading an order on
sequestration. You want to leave Mr. Lopez? It's the same
one that I read the other night.

MR. DOWD: How about the Reader's Digest, your Honor?

THE COURT: I assume it's gotten.

THE MARSHAL: There are three different editions

of the Reader's Digest, here, your Honor.

MR. ELLIS: Your Honor, the issue to which I was referring was the January issue, if that is among the three.

THE COURT: All right. Let me go through it.

MR. ELLIS: Your Honor, my recollection isn't entirely clear, but I believe it also mentions the names of potential government witnesses.

THE COURT: That should be a great help for the defense counsel.

MR. ELLIS: It was the juror that had it, not the defense. But if you want to give it to us --

THE COURT: Oh, come one.

MR. FISHER: If your Honor please, I would like to have the record disclose which juror it was had the Reader's Digest of January. I would like the Court to also inquire individually of that juror whether or not they read that article.

THE COURT: Is this article supposedly the one entitled "Night of the Big Drug Bust"?

MR. ELLIS: Yes, your Honor.

THE COURT: Gentlemen, in case you didn't notice, I recieved a mound of literature, not just one Reader's Digest. I don't even recognize some of the names of the magazines, I must admit. I don't think I will have too much difficulty

1 jbsl

2 leafing through Family Circle or Women's Day, but some of the
3 other ones I think I am going to have to go through to see if
4 there is anything about this case in them. Does everybody
5 want to sit nice and still and very quiet while I read the
6 magazines?

7 MR. LOPEZ: Yes.

8 THE COURT: You want to do it right now?

9 MR. H. SIEGAL: No, of course not.

10 MR. ELLIS: Your Honor, if that juror read about
11 this case and is sequestered tonight and discusses it with
12 the other jurors we might have a problem. We ought to clear
13 that up.

14 THE COURT: I think that question has already been
15 asked of the jury and answered. They have indicated that
16 they have not read about the case. We got a clear jury that
17 way. If there was something we didn't know about beforehand,
18 never asked the question, then we would have a problem. But
19 I don't see that the problem exists right now.

20 MR. ELLIS: Judge, that article is not specifically
21 about this case but mentions real episodes and places and
22 persons.

23 THE COURT: Mr. Ellis, the thing is I asked about
24 these defendants or this case. I don't know how more specific
25 I can be.

2 MR. LOPEZ: What we are afraid of, your Honor, if I
3 may be heard, is that sometime later during the course of
4 trial the juror who has now been selected may associate what
5 he is hearing with what he has read. At that point there may
6 be a link of association. All we would like to know from
7 Juror number 6, if he is the one who had in his possession the
8 Reader's Digest, is if he read that article.

9 THE COURT: Is it Juror number 6?

10 MR. PHILLIPS: Yes, it was.

11 THE COURT: All right.

12 SCHWARTZ: Your Honor, I would like to know if the
13 juror read the article, but I don't see how we can allude to
14 that particular article without doing more damage. By giving
15 the name of that article I think we might do more damage.

16 THE COURT: Night of the Big Drug Bust.

17 MR. SCHWARTZ: Yes.

18 MR. PHILLIPS. I think your Honor's question directed
19 to them, which was not only whether or not they read anything
20 about this case, about these defendants, but is there anything
21 that would prevent them from acting as a fair and impartial
22 juror, was answered by each of these jurors.

23 THE COURT: I believe it was also.

24 MR. ELLIS: Your Honor, Juror number 6 did pause for
25 a long time before answering that question and it could very

1 jhel

2 well be that he didn't recognize whether something would in
3 fact impair his fairness. I think we ought to ask him specifi-
4 cally whether he read this article. Where we go from there I
5 am not quite sure, but we ought to know that at least.

6 MR. SCHWARTZ: Your Honor, if I May, I would ask,
7 if the juror is going to be asked the question, I would ask
8 the juror if he read any article in the REader's Digest con-
9 cerning any matter pertaining to narcotics. I think that would
10 be the end of it, without specifically mentioning the name
11 of that article.

12 THE COURT: I am game to go with that one. All
13 right?

14 MR. FISHER: Yes, your Honor.

15 THE COURT: Do you want the whole jury back on
16 this?

17 MR. LOPEZ: No, just Juror number 6.

18 THE COURT: All right. I want you quiet while he is
19 back here.

20 (Juror Number 6 present.)

21 BY THE COURT
22 OF JUROR NUMBER 6:

23 Q Mr. Estock; somebody spotted that you had a January,
24 1974 Reader's Digest. Have you started reading it yet?

25 A Yes, I did, this morning.

Q Did you read anything in here about narcotics or

1 jhel

2 anything like that?

3 A No.

4 Q No, your didn't?

5 A No.

6 Q Fine.

7 A I --

8 Q It was a simple question.

9 A I didn't even know there was anything in there.

10 THE COURT: All right, fine. thank you very
11 much.

12 (Juror number 6 left the courtroom.)

13 MR. SALKOW: If your Honor please, I don't mean to
14 harp on the issue, but some counsel seem to believe there was
15 more than one Reader's Digest. Is that so, or was there only
16 one?

17 THE COURT: One of that date. The other one was
18 July, 1973.

19 MR. KING: Does your Honor have any proposed idea as
20 to the pattern in which the openings are going to be made by
21 the respective defense attorneys?

22 THE COURT: Yes.

23 MR. KING: May I follow it up with a suggestion,
24 if you don't, that we just go around from left to right?

25 MR. LOPEZ: Judge Duffy, that problem has already

1 jhel

2 been settled. We will follow the traditional grounds.

3 THE COURT: That's funny. That is just what I was
4 going to say.

5 MR. FISHER: The order of the indictment.

6 THE COURT: The order of the indictment. We will
7 start at the top and go all the way down.

8 Mr. Kings, you are out of order, but that's all
9 right.

10 MR. KING: I stand rebuked, Judge.

11 THE COURT: I don't mean it that way. I just mean
12 sitting out of order.

13 All right. Mr. Lopez will stay. I will sequester
14 the jury.

15 (Pause.)

16 (In the robing room; Mr. Phillips and Mr. Lopez
17 present.)

18 THE COURT: I have reviewed very quickly these
19 things and I am having the New Yorker and the Reader's Digest
20 more closely reviewed. I don't see anything in Seventeens-
21 Make It, Family Circle, Woman's Day, Saturday Review World,
22 Woman's Day, Family Circle, Black Sports, and New Times.
23 I am not sure of exactly what kind of a thing New Times is, but
24 these are the articles: Whippings for God, the Mondale Myth,
25 The Manoi Hilton Rebels Hold a Reunion, California Looks for

1 jeel

402

2 a Better Way to Kill Now that the Death Penalty is Back,
3 Legislators Consider the Alternatives, Gas, Guillotine, Pill
4 The Ultimate Mickey, Betrayed by Bob Dylan, Joe Frazier's
5 Bodyguard and Court of Last Hope, which is described, Once
6 people crossed into Mexico for Whores and abortions, but now
7 thousands seeking everything from perpetual youth to cancer
8 cures are coming for unorthodox medical treatments given by
9 renegade doctors.

10 I really don't see anything wrong with that partic-
11 ular magazine. Do you fellows?

12 MR. LOPEZ: No.

13 MR. PHILLIPS: No. Can I see it a minute?

14 THE COURT: Sure. The New Yorker, January 14, the
15 only item which refers to matters of court is a cartoon with
16 two judges, one turning to the other, saying "try as I may,
17 I keep blowing the pronunciation of 'prurient'." I don't
18 think that would influence the jury.

19 The Plain Truth, a Magazine of Understanding, the
20 articles are personal from the editor, which talks about
21 personal meetings with heads of government, a new look at the
22 energy crisis, Advanced News, which is entitled Fireworks
23 Feared at World Trade Talks; the Dilemma of Prostitution;
24 Genocide; Man's Way to Peace; The Carpenter of Gallilee Who
25 Brought the World Love; Heaven, Hell and Hereafter; What

1 jhel

2 our Readers Say; What you Can Do, speaking of the Devil, and
3 a radio and TV log.

4 I don't think there is anything in that.

5 The July '73 Reader's Digest --

6 MR. LOPEZ: Your Honor, I have gone over all the
7 articles and there is nothing there relating to the instant
8 case or narcotics in general.

9 THECOURT: All right. We are agreed on New Times,
10 I think.

11 MR. LOPEZ: Yes, your Honor.

12 Your Honor, I have also looked at the December, 1973
13 Reader's Digest and there again there does not appear to be
14 any articles regarding the instant case or narcotics in
15 general.

16 THE COURT: All right. I hope I can work out some
17 procedure where I don't have to be the censor in this.

18 MR. LOPEZ: What we could do, your Honor, if I can
19 make a suggestion, perhaps Mr. Phillips can name someone on
20 his staff and perhaps one of defense counsel and we can go
21 over it.

22 MR. PHILLIPS: Is it your Honor's intention to
23 permit the jurors to read newspapers or magazines?

24 THE COURT: Newspapers cut up, with everything
25 concerning every trial, not only this trial, any trial, any

1 jhe

2 crimes, anything like that, it's going to be removed before
3 they get it. They will be big on the Wall Street Journal
4 after this case is finished.

5 As for magazines, we will have to take a look at the
6 magazines as they come in.

7 As for books, there will be no mystery stories,
8 because mysteries generally involve crimes, or courtroom type
9 activities. Historical novels --

10 MR. LOPEZ: Perry Mason?

11 THECOURT: No. Historical novels and stuff, poetry,
12 and so forth.

13 All right, gentlemen. If we can get agreement
14 tomorrow before the trial opens --

15 MR. LOPEZ: My suggestion is someone from your staff and
16 one of defense counsel.

17 MR. PHILLIPS: Sure.

18 MR. LOPEZ: I think that would do it.

19 MR. PHILLIPS: I will designate somebody.

20 MR. LOPEZ: And I will ask someone to volunteer.
21 I think that would be the best way of handling it.

22 THE COURT: Do we have a real literary type, an
23 avid reader of everything, among the defense?

24 MR. LOPEZ: I don't know.

25 THE COURT: Let me make another suggestion to you.

1 jhel

2 Let me just instruct the marshals that they are to sequester
3 the jurors under the same conditions as they were the other
4 night.

5 MR. LOPEZ: Yes, your Honor.

6 THE COURT: And I will enter a formal order, so that
7 I don't have to sign for every meal, which I have to do now.

8 MR. LOPEZ: Perfect.

9 THE COURT: I will get up a formal order, including
10 permitting them to have two drinks at night and so on and
11 so forth. All right?

12 MR. LOPEZ: Fine.

13 THE COURT: All right.

14 (In open Court.)

15 THE COURT: Ladies and gentlemen, I requested the
16 marshals to obtain from you all of the reading material which
17 you had in the way of magazines. There is one magazine which
18 I am holding back.

19 Mr. Marshal, if you would be good enough to return
20 the rest of the magazines.

21 As I indicated to you, there will be a sequestration
22 of this jury. I am going to do two things. First of all, as
23 far as tonight is concerned, what is going to happen is this:
24 I am going to ask the marshal to permit you to call your home
25 immediately. The marshal is directed to monitor phone calls

1 jhel

2 in the sense that I want you to tell the folks at home that
3 you are going to be sequestered. Between now and tomorrow
4 morning I am going to get a formal order of sequestration up
5 and I will have this formal order of sequestration sent to
6 your next of kin, whoever you might designate, along with a
7 short letter stating that you are on this jury and that you
8 have been subjected to sequestration as set out in the attach-
9 ed order. Basically what I want to have happen tonight, some
10 of you, in fact, most of you, do have a suitcase down here
11 with clothing that you can use. Who does not?

12 There are four people who do not. I am going to ask
13 in your phone call home -- oh, you are a bachelor. I have a
14 lot of problems.

15 JUROR NUMBER 10: Your Honor, I have a question.
16 Could I approach the bench?

17 THE COURT: sure.

18 (At the side bar.)

19 BY THE COURT

20 OF JUROR NUMBER 10:

21 Q What's the problem?

22 A I am separated and while I was separated I married
23 a widow. She had a stepson. His name is John Hawkey. He
24 became an addict while we were separated.

25 Q But you are separated?

1 jhel

2 A Yes.

3 Q This is not your son?

4 A No.

5 Q Do you think that this would in any way affect you?

6 A I never thought of it that way.

7 Q Do you think it would affect you?

8 A No, I don't think so.

9 Q How about getting your clothes?

10 A Are you going to let us go or not?

11 Q No, I am not going to let you go.

12 A I could have --

13 Q Do you live alone?

14 A Yes. I live in the same apartment. My wife lives
15 there too. And I got a couple of inlaws.

16 Q Can you get spmebody to put together a bag for you?

17 A Yes, yes.

18 Q All right. Go back up and take your place.

19 A Okay.

20 MR. LOPEZ: Your HONor, in behalf of the defense,
21 we would like to exercise a challenge for cause against
22 this specific juror. We are dealing here with a narcotic
23 case and there is a relationship here. The juror himself
24 voluntarily brought it out, giving some significance to the
25 fact that although he has never thought about it before, he

1 jhel .

408

2 is thinking about it now. I think, your Honor, that this
3 juror should be replaced with one of the alternates at this
4 time.

5 MR. PHILLIPS: Your Honor, the juror when he was
6 first questioned and when questioned on this occasion indicated
7 that there was nothing that would prevent him from being a
8 fair and impartial juror.

9 MR. LOPEZ: The only thing I would like to point out
10 is that the defense has on repeated occasions --

11 THE COURT: I am aware of that.

12 Let me think about it. They are going to be told not
13 to discuss it tonight. Let me think about it.

14 MR. LOPEZ: All right.

15 (In open Court.)

16 THE COURT: Ladies and gentlemen, the marshal will
17 take you and sequester you. Let me give you a little out-
18 line of what the formal order will provide.

19 You are going to be provided with housing and food.
20 When I say food I am talking about breakfast, lunch and dinner.

21 I will also be directing the marshal to provide
22 you -- we are going to have an afternoon break and a morning
23 break -- if possible to provide you with some light refreshment
24 during that time, so that you will have food all through the
25 day.

1 jhel

2 In the evening, after the trial day is finished,
3 you will be permitted to purchase at your own expense this
4 time two highballs or two cocktails or two bottles of beer,
5 whatever you want. That is an individual two. In other
6 words, if there is a member of the women's Christian Temper-
7 ence group among your group, she cannot give her two to some-
8 one else.

9 Tonight I want you to see if you can get together
10 and select a social and activities chairman. There will be
11 times when court will not be in session and perhaps you folks
12 would like to do something. That chairman is to advise me
13 in writing -- give a sealed envelope to the marshal -- advise
14 me in writing as to what you might want to do and we will see
15 if we can't arrange to have you do that. I don't know exactly
16 what it's going to be now, but we will see about it. I will
17 do my best.

18 Let me mention to you also that I don't want you
19 tonight or any other night or at any other time until I tell
20 you to to discuss this case with anyone. If you have a
21 split personality don't discuss it with the other half. I
22 mean that. I don't want you to form any conclusions or any
23 opinions until all of the evidence is in. At that point I
24 will ask you to form some real firm opinions and at that time
25 you will have your opportunity to discuss the case in full.

I should tell you that while tonight you can make your phone call home, although the marshal will be monitoring it, if you want your mail sent to you the marshal is going to have to open it and make sure that you don't have a bunch of clippings about this case and so on and so forth. For example, he couldn't care less about your bills. If you want to send your bills out just let the marshal know what it is and let him take a look at it, he will send it out. If you don't want to do it that way, what the marshal will have to do is to hold all your mail, both incoming and outgoing, until the end of the case. At that time he will give you all the incoming stuff and mail out all the outgoing stuff.

Of course, at that point it will be academic.

The marshal, as I said, a Deputy Marshal, will be with you just about all the time. If there are any difficulties whatsoever put it in a sealed envelope and the marshal will deliver that to me. Scribble it out and deliver it to me.

I am also going to request the marshal to provide for some modest refreshments, like tea or coffee or a Coke or something, during the evening hours.

You should recognize also that you will not be permitted indiscriminate watching of television. I will be going through in the morning with the marshal the various

1 jhel

2 there are and what is bad. I will tell you right now one
3 thing that is definitely bad is the news. If you want news-
4 papers I am going to have to direct the marshal to delete from
5 the newspaper any reference whatsoever to this case or any
6 other case going on at this point.

7 The marshal also will be directed to make provision
8 for you to go to church on Sunday, if you go on Sunday. If
9 you have some other day that you go let me know, we will see
10 if we can't work it out.

11 One other thing. If you have an appointment with a
12 doctor or if you need an appointment with a doctor -- I know
13 one gentleman, I have agreed already to arrange for certain
14 X-rays for him. I know that there may be people on the jury
15 who have to go and have periodic checkups. Don't worry about
16 that. Write it out, put it in an envelope, let me have it.
17 I assure you, we will take care of it. You are going to be
18 not only fed and housed, you are going to be coddled as far
19 as your health is concerned.

20 You may wonder whether you can have visitors. Basic
21 the answer is yes. If your wife or husband wants to come
22 down and visit you while you are not in this courthouse there
23 will hopefully be a sitting room. There is going to be a
24 sitting room there and they certainly can come in and talk
25 to you. The only thing is, you have to recognize if you come

1 jhel

412

2 from a large family like I do, you can't have 13 visitors all
3 at once. If need be I might restrict the number of visitors.
4 But use your common sense and I won't.

5 I am going to ask you also that any communication with
6 me be directed in writing, put in a sealed envelope, given
7 to the marshal. If you feel it needs immediate attention the
8 marshal will have my home phone number and I will take care
9 of it anytime of the day or night. That is the only time he
10 will open it, if you need immediate attention.

11 JUROR NUMBER 9: May I talk to you a minute?

12 THE COURT: Yes, sir.

13 (At the side bar.)

14 JUROR NUMBER 9: I already asked the marshall if he
15 could see you about it. I am a school teacher and the semester
16 ended and there is no problem, but the computer cards -- I
17 talked to my principal this morning, said I am on a case and
18 couldn't get out. So he said the computer cards could be
19 given to a Mr. Moran, a school teacher who lives in Kew
20 Gardens, and he should be taking them to his house in Kew
21 Gardens about 6:00.

22 THE COURT: What are the computer cards for?

23 JUROR NUMBER 9: For the report cards for the students.

24 I'm sorry. I didn't explain my self properly. It's rather
25 important that these computer cards be returned by Monday

1 jhel
2 morning. If sometime between now and Sunday night I could
3 have the computer cards and my class record book, which Mr.
4 Moran will have --

5 THE COURT: In other words, the whole thing.

6 JUROR NUMBER 9: Yes. All I have to do -- the only
7 reason I am asking is there are 150 kids and I have to make
8 decisions.

9 THE COURT: We will arrange for the kids to get their
10 marks. Don't worry about it.

11 JUROR NUMBER 9: He expects me 6:00 or 7:00 tonight.
12 I didn't even tell him enough about the trial so that he
13 doesn't expect me. So if I am not going to get them I could
14 make a phone call.

15 THE COURT: All right.

16 (Pause.)

17 JUROR NUMBER 9: One last thing. YOU haven't
18 mentioned how you are going to contact our employers.

19 THE COURT: I will take care of that.

20 JUROR NUMBER 9: All right. Thank you very much.

21 (In open court.)

22 JUROR NUMBER 11: Sir, may I speak to you? I don't
23 want to interrupt.

24 THE COURT: Are you the juror with a car in Fort Lee?

25 JUROR NUMBER 11: Yes.

1 jhel

2 THE COURT: I have talked to the marshall about it
3 already and we are going to make arrangements to take care
4 of your car in Fort Lee.

5 Anybody else? You want to come up? Come up.

6 (At the side bar.)

7 THE COURT: Yes.

8 JUROR NUMBER 3: I have a invitation to a wedding on
9 Saturday. Is that excusable?

10 THE COURT: I'm sorry, it's not.

11 JUROR NUMBER 3: I't in Jersey.

12 THE COURT: I'm afraid it's not.

13 JUROR NUMBER 3: I'ts not excusable?

14 THE COURT: No. If you want to give me the name and
15 address of the folks, I will call them up myself and explain.

16 JUROR NUMBER 3: It won't be necessary. I have the
17 invitation here with me.

18 THE COURT: I'm sorry, Ma'am.

19 JUROR NUMBER 3: Okay. Thanks.

20 MR. PHILLIPS: Your Honor, Juror number 11 indicated
21 he had other problems besides a car in Fort Lee.

22 (In open Court.)

23 THE COURT: Do you want to see me?

24 JUROR NUMBER 11: Yes, sir.

25 THE COURT: Come up.

(Discussion at the side bar with Juror Number 11.)

THE COURT: You have the guidelines, and you will have a copy of the form tomorrow.

Thank you very much.

Marshal, will you escort the jury out, and make the necessary arrangements.

(The jury left the courtroom.)

THE COURT: All right, gentlemen. That finishes us up until ten o'clock tomorrow.

I don't know if the people are here on the Gerard case. I will take a five-minute break for my own personal problems.

(Adjourned to January 25, 1974, at 10:00 a.m.)

- - -

